

2013-2014

**SENATE
PENSIONS &
RETIREMENT & AGING**

MINUTES

MEMBERS

Sen. Tom Apodaca, Co-Chair

Sen. David Curtis

Sen. Rick Gunn

Sen. Ronald Rabin

Sen. Shirley Randleman

Sen. Ralph Hise, Co-Chair

Sen. Malcolm Graham

Sen. Louis Pate

Sen. Gene McLaurin

Sen. Michael Walters

Staff:

Theresa Matula

Stanley Moore

Karen Cochrane-Brown

Andy Perrigo, Committee Assistant

2013 SENATE PENSIONS, RETIREMENT and AGING

Thursday, May 02, 2013

SB 354 Revise Auditors Responsibilities.-AB

SB 558 Treasurers Investments.

SB 304 Fire and Rescue Pension Revisions of 2013.

Tuesday, June 25, 2013

HB 161 (CS#1) Mandatory Retirement Age for Magistrates.

HB 176 Charter School Election.

HB 551 (CS#1) Amend Wilmington Firefighters Relief Fund.

HB 347 Amend Greensboro Firefighters Retirement.

HB 391 Volunteer Service in Retirement.

HB 402 TRICARE Supplement for Flex Accounts.

HB 834 (CS#2) Modern State Human Resources Management/RTR.
Draft Number: H834-PCS30578-RO-33

Wednesday, June 26, 2013

HB 358 (CS#1) Retirement Technical Corrections.-AB

HB 357 (CS#1) Retirement Governance Changes Act of 2013.-AB
Draft Number: H357-PCS80396-LL-22

HB 232 (CS#2) State Health Plan/Statutory Changes.-AB
Draft Number: H232-PCS80393-SH-23

HB 327 (CS#2) Fire and Rescue Pension Revisions of 2013.-AB
Draft Number: H327-PCS80394-SH-25

HB 359 (CS#1) Retirement Administrative Changes Act of 2013-AB
Draft Number: H359-PCS70475-SH-26

Senate Committee on Pensions & Retirement and Aging
Thursday, May 2, 2013, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 354	Revise Auditor's Responsibilities.-AB	Senator J. Davis
SB 304	Fire and Rescue Pension Revisions of 2013.	Senator Meredith Senator Newton
SB 558	Treasurer's Investments.	Senator Hise
SB 346	Career Fire and Rescue Retirement. For Discussion Only	Senator Hartsell

Presentations

Other Business

Adjournment

Senate Committee on Pensions & Retirement and Aging
Thursday, May 2, 2013 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 9:00 AM on May 2, 2013 in Room 1027/1128 of the Legislative Building. 8 members were present.

Sen. Ralph Hise, presided.

Sergeant-at-Arms: Ronald Spann, Ken Kirby, Ed Kesler, Anderson Meadows
Pages: Andrew Cavari- Wake, RaeQuawn Anderson- Wilson, Odom Williford- Orange

S 558 Treasurer's Investments

Sen. Hise relinquished the chair to Sen. Gunn for discussion of S558. Sen. R. Rabin moved for a Favorable Report. There was no public comment. Bill passed committee with a Favorable Report.

S 354 Revise Auditor's Responsibilities.-AB

Sen. Hise took back the chair. Sen. J. Davis explained the bill. Sen. Pate moved for a Favorable Report. There was no public comment. Motion passed and the bill passed committee with a Favorable Report.


S 304 Fire and Rescue Pension Revisions of 2013

Sen. Gunn moved for consideration of the PCS S304-CSSH-14 [v.2]. This PCS also had an Actuarial Note (SAR0304v1). Sen. Meredith explains the PCS. A Mr. O'Brian and Mr. Anders of the Professional Fire Fighters and Paramedics of NC and staff fielded a series of questions from members of the committee. Otherwise, there was no public comment. Sen. Randleman moved for an Unfavorable As to Original/Favorable As to the PCS. The bill passed the committee with a recommended referral to Appropriations/Base Budget.

S 346 Career Fire and Rescue Retirement (for discussion only) In public comments, the bill was opposed by representatives of the NC League of Municipalities and the NC Association of County Commissioners. The bill was publicly supported by the Professional Fire Fighters and Paramedics of NC. The members of the committee agreed that the bill need to be revisited in the future. There is an Actuarial Note, SAR0346v1

Sen. Hise then asked if there was further discussion. Hearing none, the committee adjourned. S 558, S 354, and S 304 were reported on the floor the same day. Other than bill summaries, no handouts or A/V presentations were given.

The meeting adjourned at 9:40 am.



Senator Ralph Hise
Presiding



Andy Perrigo, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Thursday, May 02, 2013

Senator Hise,

submits the following with recommendations as to passage:

FAVORABLE

SB 354

Revise Auditors Responsibilities.-AB

Draft Number: None

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

SB 558

Treasurers Investments.

Draft Number: None

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 2

Senator James Davis will handle SB 354

Senator Ralph Hise will handle SB 558



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Thursday, May 02, 2013

Senator Hise,

submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE BILL

SB 304

Fire and Rescue Pension Revisions of 2013.

Draft Number: S304-PCS75306-SH-14

Sequential Referral: None

Recommended Referral: Appropriations/Base Budget

Long Title Amended: No

TOTAL REPORTED: 1

Senator Wesley Meredith will handle SB 304



* C M R 4 6 1 - V - 1 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 558

Short Title: Treasurer's Investments. (Public)

Sponsors: Senator Hise (Primary Sponsor).

Referred to: Pensions & Retirement and Aging.

April 1, 2013

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAW GOVERNING THE STATE TREASURER'S
INVESTMENT AUTHORITY WITH REGARD TO SPECIAL FUNDS HELD BY THE
TREASURER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 147-69.2(b) reads as rewritten:

"(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then that investment shall continue to be authorized by this subsection, and none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications. For purposes of computing market values on which percentage limitations on investments in this subsection are based, all investments shall be valued as of the last date of the most recent fiscal quarter.

- (1) Investments authorized by G.S. 147-69.1(c)(1)-(7).
- (2) General obligations of other states of the United States.
- (3) General obligations of cities, counties and special districts in North Carolina.
- (4) Obligations of any company, other organization or legal entity incorporated or otherwise created or located within or outside the United States, including obligations that are convertible into equity securities; if the obligations bear one of the four highest ratings of at least one nationally recognized rating service when acquired.
- (5) Repealed by Session Laws 2001-444, s. 2, effective October 1, 2001.
- (6) Asset-backed securities (whether considered debt or equity) provided they bear ratings by nationally recognized rating services as provided in G.S. 147-69.2(b)(4).
- (6a) In addition to the limitations and requirements with respect to the investments of the Retirement Systems set forth in this subsection, the State Treasurer shall select investments of the assets of the Retirement Systems such that investments made pursuant to subdivisions (b)(1) through (6) of this section shall at all times equal or exceed twenty percent (20%) of the market value of all invested assets of the Retirement Systems.



* S 5 5 8 - V - 1 *

- (6b) Investments pursuant to subdivisions (b)(1) through (6) of this section may be made directly by the State Treasurer or through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by subdivisions (b)(1) through (6) of this section, provided for each indirect investment, the investment manager has assets under management of at least one hundred million dollars (\$100,000,000).
- (6c) With respect to Retirement Systems' assets referred to in subdivision (b)(8), they may be invested in ~~obligations and other obligations~~, debt securities, and asset-backed securities, whether considered debt or equity, including ~~debt obligations and securities convertible into other securities~~, that do not meet the requirements of any of subdivisions (b)(1) through (6) of this section nor subdivision (b)(7) of this section, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common, or collective trust funds of banks and trust companies, group trusts and limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under management of at least one hundred million dollars (\$100,000,000) and provided that the investments authorized under this subdivision shall not exceed ~~five percent (5%) of the market value of all invested assets of the Retirement Systems~~ the limitations set forth in subdivision (10a) of this subsection.
- (7) With respect to Retirement Systems' assets referred to in subdivision (8) of this subsection, (i) insurance contracts that provide for participation in individual or pooled separate accounts of insurance companies, (ii) group trusts, (iii) individual, common, or collective trust funds of banks and trust companies, (iv) real estate investment trusts, (v) investment companies registered under the Investment Company Act of 1940, ~~and (vi) limited partnerships, limited liability companies, or other limited liability investment vehicles; vehicles, and (vii) contractual arrangements in which the investment manager has discretion and authority to invest assets specified in such arrangements in investments authorized by this subsection~~; provided the investment manager has assets under management of at least one hundred million dollars (\$100,000,000); provided such investment assets are managed primarily for the purpose of investing in or owning real estate or related debt ~~financing~~ financing, excluding asset-backed financing, located within or outside the United States; and provided that the investments authorized by this subdivision shall not exceed ~~ten percent (10%) of the market value of all invested assets of the Retirement Systems~~ the limitations set forth in subdivision (10a) of this subsection.
- (8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets

1 invested pursuant to subdivision (b2) of this section, they may be invested in
2 equity securities traded on a public securities exchange or market organized
3 and regulated pursuant to the laws of the jurisdiction of such exchange or
4 market and issued by any company incorporated or otherwise created or
5 located within or outside the United States; provided the investments meet
6 the conditions of this subdivision. The investments authorized for the
7 Retirement Systems under this subdivision cannot exceed sixty-five percent
8 (65%) of the market value of all invested assets of the Retirement Systems.

9 The assets authorized under this subdivision may be invested directly by
10 the State Treasurer in any equity securities authorized by this subdivision for
11 the primary purpose of approximating the movements of a nationally
12 recognized and published market benchmark index. ~~No more than one and~~
13 ~~one-half percent (1.5%) of the market value of the Retirement Systems'~~
14 ~~assets that may be invested directly under this subdivision can be invested in~~
15 ~~the stock of a single corporation, index within one-half percent (0.50%) per~~
16 ~~annum. The total number of shares in any single corporation in which the~~
17 ~~Treasurer directly invests and the total number of shares in that single~~
18 ~~corporation cannot exceed eight percent (8%) of the issued and outstanding~~
19 ~~stock of that corporation.~~

20 So long as each investment manager has assets under management of at
21 least one hundred million dollars (\$100,000,000), the assets authorized under
22 this subdivision may also be invested through any of the following:

- 23 a. Investment companies registered under the Investment Company Act
24 of 1940; individual, common, or collective trust funds of banks and
25 trust companies; and group trusts that invest primarily in investments
26 authorized by this subdivision.
- 27 b. Limited partnerships, limited liability companies, or other limited
28 liability investment vehicles that are not publicly traded and invest
29 primarily in investments authorized by this subdivision. Investments
30 under this sub-subdivision shall not exceed ~~six and one-half percent~~
31 ~~(6.5%) of the market value of all invested assets of the Retirement~~
32 ~~Systems; the limitations set forth in subdivision (10a) of this~~
33 ~~subsection.~~
- 34 c. Contractual arrangements in which investment managers have full
35 and complete discretion and authority to invest assets specified in
36 such contractual arrangements in investments authorized by this
37 subdivision.

- 38 (9) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
39 of this subsection, they may be invested in interests in limited partnerships,
40 limited liability companies, or other limited liability investment vehicles that
41 are not publicly traded if the primary purpose of the limited partnership,
42 limited liability company, or other limited liability investment vehicle is (i)
43 to invest in private equity, or corporate buyout transactions, within or
44 outside the United States or (ii) to engage in other strategies not expressly
45 authorized by any other subdivision of this subsection. The amount invested
46 under this subdivision shall not exceed ~~seven and one-half percent (7.5%) of~~
47 ~~the market value of all invested assets of the Retirement Systems; the~~
48 ~~limitations set forth in subdivision (10a) of this subsection.~~

- 49 (9a) With respect to Retirement Systems' assets, as defined in subdivision (b)(8)
50 of this subsection, they may be invested in inflation-linked bonds,
51 timberlands, commodities, and other assets/investments that are acquired by

the Treasurer for the primary purpose of providing protection against risks associated with inflation, provided such investments are made through investment companies registered under the Investment Company Act of 1940, individual, common or collective trust funds of banks and trust companies, group trusts and limited partnerships, limited liability companies or other limited liability investment vehicles that invest primarily in investments authorized by this subdivision and through contractual arrangements in which the investment manager has full and complete discretion and authority to invest assets specified in such arrangements in investments authorized by this subdivision, provided the investment manager for each investment pursuant to this subdivision has assets under management of at least one hundred million dollars (\$100,000,000) and provided that the investments authorized under this subdivision shall not exceed five percent (5%) of the market value of all invested assets of the Retirement Systems. ~~Notwithstanding anything in this subsection to the contrary, the investments authorized by this subdivision shall not be included in any subdivision other than this subdivision for purposes of the percentage investment limitations therein or otherwise the limitations set forth in subdivision (10a) of this subsection.~~

(10) Recodified as part of subdivision (b)(9) by Session Laws 2000-160, s. 2.

(10a) With respect to Retirement Systems' assets, as defined in subdivision (8) of this subsection, the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection shall not exceed fifteen percent (15%) of the market value of all invested assets of the Retirement Systems; and the aggregate market value of all assets invested pursuant to subdivisions (6c) and (7), sub-subdivision b. of subdivision (8), and subdivisions (9) and (9a) of this subsection shall not exceed forty percent (40%) of the market value of all invested assets of the Retirement Systems. In the event that the market value of any of subdivision (6c) or (7), sub-subdivision b. of subdivision (8), or subdivision (9) or (9a) of this subsection increases during a fiscal year by an amount greater than three percent (3%) of the market value of all invested assets of the Retirement Systems as of the prior fiscal year end, then the quarterly report provided by the Treasurer pursuant to G.S. 147-68(d1) shall describe how that increase complies with the duties described in G.S. 147-69.7 and the consequent expected impact on the risk profile of the Retirement Systems' assets.

(11) With respect to assets of the Escheat Fund, obligations of the North Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22), not to exceed twenty-five million dollars (\$25,000,000), that have a final maturity not later than October 1, 2014. The obligations shall bear interest at the rate set by the State Treasurer. No commitment to purchase obligations may be made pursuant to this subdivision after September 1, 1993, and no obligations may be purchased after September 1, 1994. In the event of a loss to the Escheat Fund by reason of an investment made pursuant to this subdivision, it is the intention of the General Assembly to hold the Escheat Fund harmless from the loss by appropriating to the Escheat Fund funds equivalent to the loss.

If any part of the property owned by the North Carolina Global TransPark Authority now or in the future is divested, proceeds of the divestment shall be used to fulfill any unmet obligations on an investment made pursuant to this subdivision.

- (12) With respect to assets of the Escheat Fund, in addition to those investments authorized by subdivisions (1) through (6) of this subsection, up to twenty percent (20%) of such assets may be invested in the investments authorized under subdivisions (7) through (9) of this subsection, notwithstanding the percentage limitations imposed on the Retirement Systems' investments under those subdivisions."

SECTION 2. G.S. 147-69.7 reads as rewritten:

"§ 147-69.7. Discharge of duties to Retirement Systems.

(a) The Treasurer shall discharge his or her duties with respect to the ~~Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firemen's and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund~~ (hereinafter referred to collectively as the Retirement Systems) Retirement Systems enumerated in G.S. 147-69.2(b)(8) as follows:

- (1) Solely in the interest of the participants and beneficiaries.
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems.

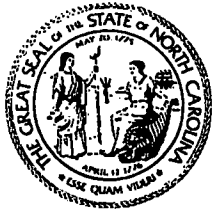
(b) In investing and managing assets of the Retirement Systems pursuant to subsection (a) of this section, the Treasurer:

- (1) Shall consider the following circumstances:
 - a. General economic conditions.
 - b. The possible effect of inflation or deflation.
 - c. The role that each investment or course of action plays within the overall portfolio of the Retirement Systems.
 - d. The expected total return from income and the appreciation of capital.
 - e. Needs for liquidity, regularity of income, and preservation or appreciation of capital.
 - f. The adequacy of funding for the Retirement Systems based on reasonable actuarial factors.
- (2) Shall diversify the investments of the Retirement Systems unless the Treasurer reasonably determines that, because of special circumstances, it is clearly prudent not to do so.
- (3) Shall make a reasonable effort to verify facts relevant to the investment and management of assets of the Retirement Systems.
- (4) May invest in any kind of property or type of investment consistent with the provisions of Article 6 of Chapter 146 of the General Statutes.
- (5) May consider benefits created by an investment in addition to investment return only if the Treasurer determines that the investment providing these collateral benefits would be prudent even without collateral benefits.

1 (c) Compliance by the Treasurer with this section must be determined in light of the
2 facts and circumstances existing at the time of the Treasurer's decision or action and not by
3 hindsight.

4 (d) The Treasurer's investment and management decisions must be evaluated not in
5 isolation but in the context of the portfolio of the Retirement Systems as a whole and as part of
6 an overall investment strategy having risk and return objectives reasonably suited to the
7 Retirement Systems."

8 **SECTION 3.** This act becomes effective July 1, 2013.



SENATE BILL 558: Treasurer's Investments

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Sen. Hise
Analysis of: First Edition

Date: May 1, 2013
Prepared by: Karen Cochrane-Brown
Committee Counsel

SUMMARY: *Senate Bill 558 amends the law governing the State Treasurer's investment authority with regard to special funds held by the State Treasurer. The bill gives the Department of State Treasurer additional flexibility in allocating assets in the State's investment portfolio.*

CURRENT LAW: Under current law, the Treasurer is authorized to invest the assets of the following Retirement Systems in five classes of alternative investments, up to specified limits:

- Teachers' and State Employees' Retirement System
- Consolidated Judicial Retirement System
- Firemen's and Rescue Squad Workers' Pension Fund
- Local Governmental Employees' Retirement System
- Legislative Retirement System
- North Carolina National Guard Pension Fund
- Retiree Health Benefit Fund

The authorized investments include (i) obligations and other debt securities, including debt and securities that are convertible into other securities that do not meet the requirement of other sections of the law, up to 5% of the market value of all invested assets; (ii) insurance contracts, group trust, and other investment vehicles, provided the investments are primarily for the purpose of investing in real estate, up to 10%; (iii) non-public investment vehicles trading primarily in public equity securities, up to 6.5%; (iv) non-public limited liability investment vehicles if the primary purpose is to invest in private equity or corporate buyout transactions or to engage in other strategies not expressly authorized, up to 7.5%; and (v) inflation-linked bonds, timberlands, commodities, and other assets that are acquired for the primary purpose of providing protection from inflation related risks, up to 5%. The total of all of these investments cannot exceed 34% of the market value of all assets of the Retirement Systems.

BILL ANALYSIS:

Senate Bill 558 eliminates the specific limits related to each of the classes of alternative investment and established a new aggregate limit of 40% for all of the investments. The market value of any one of the investments cannot exceed 15% of the market value of all invested assets. In addition, in the event the market value of any of the investments increases during a fiscal year by more than 3% of the market value of all invested assets as of the prior fiscal year end, the Treasurer must describe how the increase complies with the discharge of her duties and the consequent expected impact on the risk profile of the Retirement Systems' assets in the quarterly report.

O. Walker Reagan
Director



Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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1

SENATE BILL 354*

Short Title: Revise Auditor's Responsibilities.-AB (Public)

Sponsors: Senator J. Davis (Primary Sponsor).

Referred to: Pensions & Retirement and Aging.

March 20, 2013

A BILL TO BE ENTITLED

AN ACT TO REVISE THE RESPONSIBILITIES OF THE STATE AUDITOR BY REMOVING THE STATE AUDITOR FROM EX OFFICIO MEMBERSHIP ON THE COMMITTEE ON ACTUARIAL VALUATION OF RETIRED EMPLOYEES' HEALTH BENEFITS AND MAKING THE ATTORNEY GENERAL A MEMBER OF THE COMMITTEE INSTEAD, BY SOLIDIFYING THE STATE AUDITOR'S ROLE IN AUDITING SCHOOLS IN THE UNIVERSITY OF NORTH CAROLINA SYSTEM AND BY ELIMINATING THE MANDATORY RESPONSE TIME FOR AN AUDITEE OF A PERFORMANCE AUDIT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.12 reads as rewritten:

"(b) The Committee on Actuarial Valuation of Retired Employees' Health Benefits shall consist of five members serving ex officio, as follows:

- (1) The State Budget Officer, who shall serve as the Chair;
- (2) ~~The State Auditor;~~ The Attorney General;
- (3) The State Controller;
- (4) The State Treasurer; and
- (5) The Executive Administrator for the State Health Plan for Teachers and State Employees."

SECTION 2. G.S. 116-30.8 reads as rewritten:

"§ 116-30.8. Special responsibility constituent institutions: annual audit by State Auditor or certified public accountant. ~~Auditor.~~

Each special responsibility constituent institution shall be audited ~~annually~~ annually by the State Auditor. ~~The Chancellor of the special responsibility constituent institution may use State funds to contract with the State Auditor or with a certified public accountant to perform the audit. The contract for audit services may be for up to three years in duration.~~ The audit shall be provided to the Chancellor and Board of Trustees of the special responsibility institution, and the Board of Governors of The University of North Carolina, and the State Auditor. ~~Carolina.~~ The audit shall also be included in the State's Comprehensive Annual Financial Report (CAFR).

The Board of Governors of The University of North Carolina shall ensure that all special responsibility constituent institutions are audited in accordance with this section."

SECTION 3. G.S. 147-64.6(c) reads as rewritten:

"(c) The Auditor shall be responsible for the following acts and activities:

...



1 (13) At the conclusion of an audit, the Auditor or his designated representative
2 shall discuss the audit with the official whose office is subject to audit and
3 submit necessary underlying facts developed for all findings and
4 recommendations which may be included in the audit report. ~~On audits of~~
5 ~~economy and efficiency and program results, the auditee's written response~~
6 ~~shall be included in the final report if received within 30 days from receipt of~~
7 ~~the draft report."~~

8 "

9 **SECTION 4.** This act becomes effective July 1, 2013.



SENATE BILL 354: Revise Auditor's Responsibilities.-AB

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Sen. J. Davis
Analysis of: First Edition

Date: May 1, 2013
Prepared by: Karen Cochrane-Brown
Committee Counsel

SUMMARY: *House Bill 354 removes the State Auditor from ex office membership on the Committee on Actuarial Valuation of Retired Employees' Health Benefits and substitutes the Attorney General. The bill also removes the authority of the Chancellor of a special responsibility constituent institution to contract with a certified public accountant instead of the State Auditor to perform the required annual audit. Finally, the bill removes the requirement that an auditee's written response be included in a final audit report if received within 30 days of receipt of the draft report.*

[As introduced, this bill was identical to H328, as introduced by Rep. Fisher, which is currently in House Government, if favorable, Finance.]

BILL ANALYSIS:

Section 1 removes the State Auditor from membership on the Committee on Actuarial Valuation of Retired Employees' Health Benefits and substitutes the Attorney General. The Committee is responsible for collecting data and reviewing assumptions for the sole purpose of conducting required actuarial valuations of State supported retired employees' health benefits under other post-employment benefit accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. The other ex officio members of the Committee are the State Budget Officer, the State Controller, the State Treasurer, and the Executive Administrator for the State Health Plan.

Section 2 removes the authority of the Chancellor of a special responsibility constituent institution to contract with a certified public accountant instead of the State Auditor to perform the required annual audit. A special responsibility constituent institution is a constituent institution of the University which has been designated by the Board of Governors, upon recommendation of the President after consultation with the State Auditor, as having the management staff and internal financial controls that will enable it to administer competently and responsibly all additional management authority and discretion delegated to it.

Section 3 eliminates the requirement that an auditee's written response to the findings and recommendations in an economy and efficiency or program audit be included in the final report if received within 30 days of receipt of the draft report.

EFFECTIVE DATE: This act becomes effective July 1, 2013.

O. Walker Reagan
Director



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Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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1

SENATE BILL 304

Short Title: Fire and Rescue Pension Revisions of 2013. (Public)
Sponsors: Senators Meredith, Newton (Primary Sponsors); Daniel and Randleman.
Referred to: Pensions & Retirement and Aging.

March 14, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING
3 THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING
4 A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND
5 UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL,
6 TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS
7 AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL
8 EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND
9 RESCUE SQUAD WORKERS' ADVISORY PANEL, TO ALLOW IN-SERVICE
10 DISTRIBUTIONS TO PARTICIPANTS, TO PROHIBIT CERTAIN FELONS FROM
11 PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING
12 FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO
13 THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

14 The General Assembly of North Carolina enacts:

15 SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as
16 rewritten:

17 "Article 86.

18 "North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

19 **"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.**

20 For the purpose of furthering the general welfare and police powers and obligations of the
21 State with respect to the protection of all its citizens from the consequences of loss or damage
22 by fire and of injury by serious accident or illness, of increasing the protection of life and
23 property against loss or damage by fire, of improving ~~fire-fighting~~ firefighting and life saving
24 techniques, of increasing the potential of fire departments, rescue squads, organizations and
25 groups, of fostering increased and more widely spread training of personnel of these
26 organizations and groups, and of providing incentive and inducement to participate in fire
27 prevention, ~~fire-fighting~~ firefighting and rescue squad activities and for the establishment of
28 new, improved or extended fire departments, rescue squads, organizations and groups to the
29 end that ultimately all areas of the State and all of its citizens will receive the benefits of fire
30 protection and rescue squads' activity and a resulting reduction of loss or damage to life and
31 property by fire hazard or injury by serious accident or illness, and in recognition of the public
32 service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~ firefighters
33 and rescue squad workers," as defined by this Article, there is created in this State a fund to be
34 known, and designated as "The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad
35 Workers' Pension Fund" to be administered as provided in this Article.



1 The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund is
2 established to provide pension allowances and other benefits for eligible ~~firemen~~ firefighters
3 and rescue squad workers in the State who elect to become members of the fund. The board of
4 trustees created by this Article shall have authority to administer the fund and shall make
5 necessary rules and regulations to carry out the provisions of this Article.

6 **"§ 58-86-2. Definitions.**

7 The following words and phrases as used in this Article, unless a different meaning is
8 plainly required by the context, shall have the following meanings:

- 9 (1) "Board" means the Board of Trustees of the Local Governmental Employees'
10 Retirement System.
- 11 (2) "Chair" means the Chair of the Board of Trustees of the Local Governmental
12 Employees' Retirement System.
- 13 (3) "Director" means the Director of the Retirement Systems Division of the
14 North Carolina Department of State Treasurer. The Director shall promptly
15 transmit to the State Treasurer all moneys collected on behalf of members,
16 which moneys shall be deposited by the State Treasurer into the fund
- 17 (4) "Eligible fire department" means bona fide fire departments which are
18 certified to the Commissioner of Insurance by the governing body thereof,
19 and determined as classified as not less than class "9S," and said fire
20 department holds training sessions not less than four hours monthly.
- 21 (5) "Eligible firefighter" means all persons 18 years of age or older who are
22 firefighters of the State of North Carolina or any political subdivision
23 thereof, including those performing such functions in the protection of life
24 and property through firefighting within a county or city governmental unit.
25 "Eligible firefighter" shall also mean an employee of a county whose sole
26 duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or
27 firefighter of the county. "Eligible firefighter" shall also mean those persons
28 meeting the other qualifications of this Article, not exceeding 25 volunteer
29 firefighters plus one additional volunteer firefighter per 100 population in
30 the area served by their respective departments.
- 31 (6) "Eligible rescue or emergency medical services squad" means organized
32 rescue squad units eligible for membership in the North Carolina
33 Association of Rescue and Emergency Medical Services, Inc.
- 34 (7) "Eligible rescue squad worker" means all persons 18 years of age or older
35 who are members of a rescue or emergency medical services squad that is
36 eligible for membership in the North Carolina Association of Rescue and
37 Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also
38 mean those persons meeting the other qualifications of this Article.
- 39 (8) "Fully credited service" means a period of time for which the Board has
40 received certification that a member has met all eligibility requirements for
41 participation in the Pension Fund and for which the Board has received
42 timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of
43 monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may
44 purchase fully credited service for any period of service as set forth in
45 G.S. 58-86-45.
- 46 (9) "Inactive member" means a member of the fund who is not on a leave of
47 absence under G.S. 58-86-95 and who is not making timely monthly
48 payments under G.S. 58-86-35 or G.S. 58-86-40.
- 49 (10) "Member" means an eligible firefighter or eligible rescue squad worker who
50 has elected to participate in the North Carolina Firefighters' and Rescue
51 Squad Workers' Pension Fund.

(11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

(13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

~~"§ 58-86-5. Creation and membership of board of trustees; compensation.~~

~~There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

~~The board shall consist of six members:~~

- ~~(1) The State Treasurer, who shall act as chairman.~~
- ~~(2) The State Insurance Commissioner.~~
- ~~(3) Repealed by Session Laws 1993, c. 9.~~
- ~~(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

"§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

- (1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.
- (2) A designee of the State Insurance Commissioner.
- (3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms. No member of the advisory panel shall receive any salary, compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the advisory panel.

1 **"§ 58-86-10. Powers and duties of the board.**

2 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
3 System shall administer the Pension Fund. The board shall request appropriations out of the
4 general fund for administrative expenses and to provide for the financing of this pension fund,
5 employ necessary clerical assistance, determine all applications for pensions, provide for the
6 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
7 government governance of this fund, prescribe rules and regulations of eligibility of persons to
8 receive pensions, expend funds in accordance with the provisions of this Article, and generally
9 exercise all other powers necessary for the administration of the fund created by this Article.

10 **"§ 58-86-11. Powers and duties of the advisory panel.**

11 The advisory panel shall meet at least once annually upon call of the chair. The advisory
12 panel shall have no administrative authority, but shall prepare an annual report to the Board of
13 Trustees of the North Carolina Local Governmental Employees' Retirement System regarding
14 the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension
15 Fund.

16 ~~**"§ 58-86-15. Director.**~~

17 ~~There is created an office to be known as Director of the North Carolina Firemen's and~~
18 ~~Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its~~
19 ~~pleasure. The director shall be subject to the provisions of the State Personnel Act. The director~~
20 ~~shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall~~
21 ~~be deposited by the State Treasurer into the fund.~~

22 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
23 **fund; expenditures.**

24 The State Treasurer shall be the custodian of the North Carolina Firemen's Firefighters' and
25 Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the
26 provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General
27 Assembly out of the general fund to provide money for administrative expenses shall be
28 handled in the same manner as any other general fund appropriation. One-fourth of the
29 appropriation made out of the general fund to provide for the financing of the pension fund
30 shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's
31 Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State
32 Treasurer's office a special fund to be known as the North Carolina Firemen's Firefighters' and
33 Rescue Squad Workers' Pension Fund, and all contributions made by the members of this
34 pension fund shall be deposited in the special fund. All expenditures for refunds, investments or
35 benefits shall be in the same manner as expenditures of other special funds.

36 ~~**"§ 58-86-25. "Eligible firemen" defined; determination**~~**Determination** and certification of
37 ~~**volunteers meeting qualifications.**~~**eligible firefighters.**

38 ~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political~~
39 ~~subdivision thereof, including those performing such functions in the protection of life and~~
40 ~~property through fire fighting within a county or city governmental unit and so certified to the~~
41 ~~Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire~~
42 ~~department which, as determined by the Commissioner, is classified as not less than class "9"~~
43 ~~or class "A" and "AA" departments in accordance with rating methods, schedules,~~
44 ~~classifications, underwriting rules, bylaws or regulations effective or applied with respect to the~~
45 ~~establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter~~
46 ~~or by such other reasonable methods as the Commissioner may determine, and which operates~~
47 ~~fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said~~
48 ~~fire department holds drills and meetings not less than four hours monthly and said firemen~~
49 ~~attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall~~
50 ~~also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire~~
51 ~~marshal, assistant fire marshal, or firefighter of the county, provided the board of county~~

commissioners of that county certifies the employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report the names of those firemen firefighters meeting the eligibility qualifications of this section Article to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this section Article to the State Treasurer by January 31 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue squad worker" in order to receive double benefits available under this Article.

"§ 58-86-30. ~~"Eligible rescue squad worker" defined; determination~~Determination and certification of eligibility."eligible rescue squad worker."

~~"Eligible rescue squad worker" means a person who is a member of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and who has attended a minimum of~~Eligible rescue squad workers must attend at least 36 hours of training and meetings in the last sessions in each calendar year. Each rescue or emergency medical services squad eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster certified by the secretary of the association of those rescue or emergency medical services squad workers meeting the requirements of this section with the State Treasurer by January 31 of each calendar year.

~~"Eligible rescue squad worker" does not mean "eligible fireman" as defined by G.S. 58-86-25, nor may an~~ An "eligible rescue squad worker" may not qualify also as an "eligible fireman"firefighter in order to receive double benefits available under this Article.

"§ 58-86-35. ~~Firemen's~~Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those ~~firemen~~ firefighters who are eligible pursuant to G.S. 58-86-25 may ~~make application for membership to the board~~ apply to the board for membership. Each ~~fireman~~ firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after March 31, subsequent to the end of the calendar year in which the month occurred.~~ The Pension Fund shall not award fully credited service based on payments received later than March 31, subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than 90 days after March 31, subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31, subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

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

(a) ~~Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before March 31, 2001. The person shall make a lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible. Any fireman or rescue squad worker who has applied for prior service under this subsection shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1) of this section.~~

(a1) ~~Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a current or former member of a fire department or rescue squad chartered by the State of North Carolina may purchase credit for any periods of service to any chartered fire department or rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, which payment shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on a retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. This provision for the payment of a lump sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service credits for months as to which timely payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

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

1 service in the same manner as if the worker had applied for membership upon first becoming
2 eligible.

3 A member who is not yet 35 years old may receive credit for the prior service upon making
4 a lump sum payment of ten dollars (\$10.00) for each month since the worker first became
5 eligible, plus interest at an annual rate to be set by the board for each year of retroactive
6 payments. Upon making this lump sum payment, the date of membership shall be the same as if
7 the worker had applied for membership upon first becoming eligible.

8 **"§ 58-86-55. Monthly pensions upon retirement.**

9 Any member who has served 20 years as an "eligible ~~fireman~~firefighter" or "eligible
10 rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
11 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
12 pension from this fund. The monthly pension shall be in the amount of one hundred seventy
13 dollars (\$170.00) per month. Any retired ~~fireman~~ firefighter receiving a pension shall, effective
14 July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

15 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
16 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall
17 receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder
18 until the member's official duties as a fireman or rescue squad worker for which the member is
19 paid compensation shall have been terminated and the member shall have retired as such
20 according to standards or rules fixed by the board of trustees.~~

21 A member who is totally and permanently disabled while in the discharge of the member's
22 official duties as a result of bodily injuries sustained or as a result of extreme exercise or
23 extreme activity experienced in the course and scope of those official duties and who leaves the
24 fire or rescue squad service because of this disability shall be entitled to be paid from the fund a
25 monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning
26 the first month after the member's fifty-fifth birthday. All applications for disability are subject
27 to the approval of the board who may appoint physicians to examine and evaluate the disabled
28 member prior to approval of the application, and annually thereafter. Any disabled member
29 shall not be required to make the monthly payment of ten dollars (\$10.00) as required by
30 G.S. 58-86-35 and G.S. 58-86-40.

31 A member who is totally and permanently disabled for any cause, other than line of duty,
32 who leaves the fire or rescue squad service because of this disability and who has at least 10
33 years of service with the pension fund, may be permitted to continue making a monthly
34 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
35 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
36 a pension as provided by this section. All applications for disability are subject to the approval
37 of the board who may appoint physicians to examine and evaluate the disabled member prior to
38 approval of the application and annually thereafter.

39 A member who, because ~~his~~the member's residence is annexed by a city under Part 2 or
40 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
41 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
42 General Statutes, or whose volunteer department is taken over by a city or county, and because
43 of such annexation or takeover is unable to perform as a ~~fireman~~firefighter or rescue squad
44 worker of any status, and if the member has at least 10 years of service with the pension fund,
45 may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund
46 until the member has made contributions for a total of 240 months. The member upon attaining
47 the age of 55 years and completion of such contributions shall be entitled to receive a pension
48 as provided by this section. Any application to make monthly contributions under this section
49 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
50 member.

1 The pensions provided shall be in addition to all other pensions or benefits under any other
2 statutes of the State of North Carolina or the United States, notwithstanding any exclusionary
3 provisions of other pensions or retirement systems provided by law.

4 **"§ 58-86-60. Payments in lump sums.**

5 The board shall direct payment in lump sums from the fund in the following cases:

- 6 (1) To any ~~fireman~~firefighter or rescue squad worker upon the attaining of the
7 age of 55 years, who, for any reason, is not qualified to receive the monthly
8 retirement pension and who was enrolled as a member of the fund, an
9 amount equal to the amount paid into the fund by him. This provision shall
10 not be construed to preclude any active ~~fireman~~firefighter or rescue squad
11 worker from completing the requisite number of years of active service after
12 attaining the age of 55 years necessary to entitle ~~him~~the firefighter or rescue
13 squad worker to the pension.
- 14 (2) If any ~~fireman~~firefighter or rescue squad worker dies before attaining the age
15 at which a pension is payable to ~~him~~the firefighter or rescue squad worker
16 under the provisions of this Article, there shall be paid to his ~~widow, or her~~
17 surviving spouse, or if there be no ~~widow, surviving spouse~~, to the person
18 responsible for his or her child or children, or if there be no ~~widow~~surviving
19 spouse or children, then to his or her heirs at law as may be determined by
20 the board or to his or her estate, if it is administered and there are no heirs,
21 an amount equal to the amount paid into the member's separate account by
22 or on behalf of the said ~~fireman~~firefighter or rescue squad worker.
- 23 (3) If any ~~fireman~~firefighter or rescue squad worker dies after beginning to
24 receive the pension payable to ~~him~~the firefighter or rescue squad worker by
25 this Article, and before receiving an amount equal to the amount paid into
26 the fund by ~~him, him or her~~, there shall be paid to his ~~widow, or her surviving~~
27 spouse, or if there be no ~~widow, surviving spouse~~, then to the person
28 responsible for his or her child or children, or if there be no ~~widow~~surviving
29 spouse or children, then to his or her heirs at law as may be determined by
30 the board or to his or her estate, if it is administered and there are no heirs,
31 an amount equal to the difference between the amount paid into the
32 member's separate account by or on behalf of the said ~~fireman~~firefighter or
33 rescue squad worker and the amount received by him or her as a pensioner.
- 34 (4) Any member ~~with five or more years of contributing service and who~~
35 ~~withdraws from the fund shall, upon proper application, be paid all moneys~~
36 ~~without accumulated earnings on the payments after the time they were~~
37 ~~made. If any member who has less than five years of contributing service~~
38 ~~made contributions, or any person, firm, corporation, or other entity has~~
39 ~~made contributions on behalf of that member and that member withdraws~~
40 ~~from the fund, the member, person, firm, corporation, or other entity shall be~~
41 ~~entitled to a refund equal to the amount of contributions made by them after~~
42 ~~the Board has been notified of the contributor's desire to be refunded its~~
43 ~~contributions upon the member's withdrawal. A member may not purchase~~
44 time under G.S. 58-86-45 for which he or she has received a refund.

45 **"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

46 If, for any reason, the fund created and made available for any purpose covered by this
47 Article shall be insufficient to pay in full any pension benefits, or other charges, then all
48 benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists.
49 No claim shall accrue with respect to any amount by which a pension or benefit payment shall
50 have been reduced.

51 **"§ 58-86-70. Provisions subject to future legislative change.**

1 These pensions shall be subject to future legislative change or revision, and no member of
2 the fund, or any person, is deemed to have acquired any vested right to a pension or other
3 payment provided by this Article.

4 **"§ 58-86-75. Determination of creditable service; information furnished by applicants for**
5 **membership.**

6 The board shall determine by appropriate rules and regulations the number of years' credit
7 for service of ~~firemen~~firefighters and rescue squad workers. ~~Firemen~~Firefighters and rescue
8 squad workers who are now serving as such shall furnish the board with information upon
9 applying for membership as to previous service. Notwithstanding any other provisions of this
10 Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad
11 workers under such terms and conditions that the Board may adopt when the Board determines
12 that an eligible ~~fireman~~firefighter or rescue squad worker has been denied such service credits
13 through no fault of his or her own.

14 **"§ 58-86-80. Length of service not affected by serving in more than one department or**
15 **squad; transfer from one department or squad to another.**

16 A ~~fireman's~~firefighter's or rescue squad worker's length of service shall not be affected by
17 the fact that he or she may have served with more than one department or squad, and upon
18 transfer from one department or squad to another, notice of the fact shall be given to the board.

19 **"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

20 Except for the applications of the provisions of G.S. 110-136, and in connection with a
21 court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to
22 attachment, garnishments or judgments against the ~~fireman~~firefighter or rescue squad worker
23 entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

24 ~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations~~
25 ~~allowed.~~

26 ~~Any member who is a member of a domiciled employees' or retirees' association that has at~~
27 ~~least 2,000 members, the majority of whom are active or retired employees of the State or~~
28 ~~public school employees, may authorize, in writing, the periodic deduction from the member's~~
29 ~~retirement benefits a designated lump sum to be paid to the employees' or retirees' association.~~
30 ~~The authorization shall remain in effect until revoked by the member. A plan of deductions~~
31 ~~pursuant to this section shall become void if the employees' or retirees' association engages in~~
32 ~~collective bargaining with the State, any political subdivision of the State, or any local school~~
33 ~~administrative unit.~~

34 **"§ 58-86-95. Leaves of absence; inactive membership.**

35 (a) Any member who resigns as an eligible firefighter or an eligible rescue squad
36 worker, whichever is applicable, may withdraw from the fund and seek a refund under
37 G.S. 58-86-60 or take a leave of absence as provided by 58-86-95, or he or she will be
38 considered an inactive member.

39 (b) In order to take a leave of absence, any member not on active military service must
40 provide the office of the director with written notice that the member is taking a leave of
41 absence. Any member not on active military service on leave of absence for more than five
42 years in any six-year period shall be considered an inactive member.

43 (c) A member is not eligible for service credit for the time he or she is on leave of
44 absence and is not required to make monthly payments for that time. During the time a member
45 is on leave of absence, he or she is not eligible for benefits from the pension fund. A member
46 who has taken a leave of absence may subsequently withdraw from the pension fund and seek a
47 refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the
48 appropriate person or persons may seek a refund under G.S. 58-86-60.

49 (d) Any member not on active military service who does not make contributions for two
50 consecutive years and has not taken a leave of absence shall be considered an inactive member.

(e) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

...

(4) North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).

...."

SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...

(6) The ~~Firemen's~~Firefighters' and Rescue Workers' Pension Fund.

...

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

...

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

- (1) Solely in the interest of the participants and beneficiaries.

- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems."

SECTION 1.(f) G.S. 147-69.8 reads as rewritten:

"§ 147-69.8. Annual report on new investment authority.

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made during the first six months of each calendar year, covering performance in the prior calendar year. As to each type of new investment authority, the report shall be made for at least four years."

SECTION 2.(a) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring disrepute on a fire department or rescue squad.

(a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is not yet 55 years of age or has not yet received 20 years of fully credited service, or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant in an eligible fire department or eligible rescue squad.
- (2) The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad worker and brings disrepute on a fire department or rescue squad.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal procedure that the offense is directly related to service as a firefighter or rescue squad worker.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total

1 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
2 reinstatement of the service credit forfeited."

3 SECTION 2.(b) G.S. 15A-1340.16(d) is amended by adding a new subdivision to
4 read:

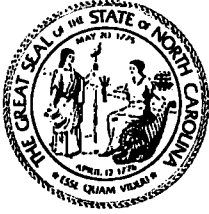
5 "(9a) The defendant is a firefighter or rescue squad worker and the offense is
6 directly related to service as a firefighter or rescue squad worker."

7 SECTION 2.(c) G.S. 58-86-95, as enacted by Section 1 of this act, reads as
8 rewritten:

9 "§ 58-86-95. Leaves of absence; inactive membership; ~~membership~~; felony forfeiture.

10 ...
11 (h) If a member who is in service and has not received 20 years of fully credited service
12 in this System on December 1, 2013, is convicted of an offense listed in G.S. 126-38.5 for acts
13 committed after December 1, 2013, then that member shall forfeit all benefits under this
14 System, except for a return of member contributions. If a member who is in service and has not
15 received 20 years of fully credited service in this System on December 1, 2013, is convicted of
16 an offense listed in G.S. 126-38.5 for acts committed after December 1, 2013, then that member
17 is not entitled to any fully credited service that accrued after December 1, 2013."

18 SECTION 3. Section 2 of this act becomes effective December 1, 2013, and
19 applies to offenses committed on or after that date. The remainder of this act becomes effective
20 July 1, 2013.



SENATE BILL 304: Fire and Rescue Pension Revisions of 2013

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Sens. Meredith, Newton
Analysis of: PCS to First Edition
S304-CSSH-14

Date: May 1, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *Senate Bill 304 updates and modernizes a number of references in the Firemen's and Rescue Squad Worker's Pension Fund, establishes an advisory board for the Fund but transfers authority for the Fund to the Local Governmental Employees' Retirement System Board of Trustees, removes the prohibition on a member receiving a pension until the member's official duties have terminated and the member has retired, and prohibits a member from collecting benefits if convicted of certain felonies under certain situations.*

The PCS only makes technical changes to a statutory reference in Section 2(c) of the bill and adds a new Section 3 to conforms with current law.

[As introduced, this bill was identical to H327, as introduced by Reps. Howard, Elmore, Hager, Turner, which has passed 3rd Reading in the House.]

CURRENT LAW:

Provisions for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund are provided in Article 86 of Chapter 58 of the General Statutes.

BILL ANALYSIS:

Section 1(a) of the bill amends Article 86 which currently provides for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. The title of the Article is changed from "Firemen's" to "Firefighters". Section 1(a) makes the changes outlined below.

§ 58-86-1 contains amendments changing "firemen" to "firefighters" which conforms to other changes throughout the bill. The amendments also include a technical change of "fire fighting" to one word, "firefighting".

§ 58-86-2 is a newly created definitions section providing definitions for the following terms: board, chair, director, eligible fire department, eligible firefighter, eligible rescue or emergency medical services squad, eligible rescue squad worker, fully credited service, inactive member, member, pension fund, training sessions for eligible rescue squad workers, and training sessions for eligible firefighters.

§ 58-86-5 which provided for a board of trustees is deleted and § 58-86-6 is created to provide for the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel. The advisory panel consists of the following seven persons:

- Director of the Retirement Systems Division, or designee, who shall act as chair;
- Designee of the State Insurance Commissioner;
- Five members to be appointed by the Board of Trustees of the Local Governmental Employees Retirement System (LGERS): one paid firefighter, one volunteer firefighter, one



Senate PCS 304

Page 2

paid rescue squad worker, one volunteer rescue squad worker, and one member representing the public at large. These five members will serve four year terms.

Those serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms.

§ 58-86-10, 11, and 15 requires the NC Local Governmental Employees' Retirement System (LGERS) Board of Trustees to administer the Firefighters' and Rescue Squad Workers' Pension Fund. The advisory panel created in § 58-86-6 must meet at least annually, has no administrative authority, and is required to prepare an annual report to the LGERS Board of Trustees regarding the status and needs of the Pension Fund. § 58-86-15 which provided for a Director of the Pension Fund, is deleted.

§ 58-86-25 is amended to provide that "eligible firefighters" as defined in § 58-86-2(5) must attend 36 hours of training sessions in each calendar year as determined and reported by each eligible fire department to the NC State Firemen's Association. The Association must provide the list to the State Treasurer by January 31 of each year. An eligible firefighter may not also qualify as an "eligible rescue squad worker" in order to receive double benefits.

§ 58-86-30 makes amendments for "eligible rescue squad worker" similar to those made in §58-86-25.

§ 58-86-35 and 40 provide that firefighters and rescue squad workers who are members of the fund must pay \$10 per month and that each payment must be made no later than March 31 subsequent to the end of the calendar year in which the month occurred. The amendments specify that the fund shall not award fully credited service based on payments received later than March 31, except as provided in § 58-86-45 (a1) when purchasing credit.

§ 58-86-45 changes include a deletion of subsection (a) which allowed an eligible individual that had not elected membership to make application on or before March 31, 2001. Provides that lump sum payments to purchase service not otherwise creditable applies, among other things, to all purchases of service credits for months when timely payments were not made pursuant to G.S. 58-86-35 or G.S. 58-86-40. Subsection (b) is amended to specify that the board must receive advice from an actuary when setting the annual rate of interest for retroactive payments.

§ 58-86-55 removes the requirement that a member's official duties as a fireman or rescue squad worker be terminated and the member retired before receiving a pension.

§ 58-86-60 makes conforming changes to "firefighter" and changes "Widow" to "surviving spouse". The amendments allow the board to make a lump sum payment of all moneys without accumulated earnings on the payments after the time they were made to any member who withdraws from the fund. (Previously the member had to have five or more years of contributing service.) Also specifies that a member may not purchase time for which he or she has received a refund.

§ 58-86-75 and 80 contain conforming changes. **§ 58-86-91** which allowed deductions for certain employee or retiree associations is deleted.

§ 58-86-95 allows a member who resigns to withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence due to active military service or other reasons.

Sections 1(b), (c), (d), (e) and (f) of the bill make the gender natural conforming change to reference "firefighters" in various sections of the General Statutes that pertain to the Fund.

Senate PCS 304

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Section 2(a) adds a new section to the Pension Fund related to forfeiture of benefits for certain felonies. The new section is similar to S. L. 2012-193 (Not Bill 153) which prohibits public retirement for convicted felons under certain situations. This new statutory section, G.S. 58-86-100, prohibits the Board from paying retirement benefits or allowances, except for a return of member contributions, to any member convicted of a felony under federal law or the laws of the State if:

1. The offense is committed while the member is not yet 55 years of age or has not received 30 years of fully credited service, or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant.
2. The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad workers and brings disrepute on a fire department or rescue squad.

Section 2(b) makes a conforming change to G.S. 15A-1340.16(d) to add to the list of aggravating factors under structured sentencing, a defendant who is a firefighter or rescue squad worker and commits an offense directly related to services as a firefighter or rescue squad worker.

Section 2(c) further amends § 58-86-95 to add a subsection which conforms to the changes in Section 1(a) pertaining to forfeiture of benefits when convicted of an offense listed in G.S. 58-86-100. The PCS contains a technical change to correct two incorrect statutory references.

Section 3 is a new section added by the PCS to conform the forfeiture provisions in this bill to Section 17 contained in S.L. 2012-193. This section directs the State Treasurer to enter into a memorandum of agreement with the U.S. Attorneys of the Eastern, Middle and Western Districts to provide a procedure for notifying the Treasurer of convictions of federal law that would trigger loss of retirement benefits if prosecuted under State law.

EFFECTIVE DATE: Section 2 of Senate Bill 304, containing the benefit forfeiture provisions, becomes effective December 1, 2013, and applies to offenses committed on or after that date. The remainder of the bill would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 304
PROPOSED COMMITTEE SUBSTITUTE S304-CSSH-14 [v.2]

5/1/2013 5:58:22 PM

Short Title: Fire and Rescue Pension Revisions of 2013.

(Public)

Sponsors:

Referred to:

March 14, 2013

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL, TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND RESCUE SQUAD WORKERS' ADVISORY PANEL, TO ALLOW IN-SERVICE DISTRIBUTIONS TO PARTICIPANTS, TO PROHIBIT CERTAIN FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as rewritten:

"Article 86.

"North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving ~~fire-fighting~~ firefighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, ~~fire-fighting~~ firefighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue squads' activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by "eligible firemen firefighters and rescue squad workers," as defined by this Article, there is created in this State a fund to be known, and designated as "The North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.



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The North Carolina Firemen's Firefighters' and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible firemen firefighters and rescue squad workers in the State who elect to become members of the fund. The board of trustees created by this Article shall have authority to administer the fund and shall make necessary rules and regulations to carry out the provisions of this Article.

§ 58-86-2. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Board" means the Board of Trustees of the Local Governmental Employees' Retirement System.
- (2) "Chair" means the Chair of the Board of Trustees of the Local Governmental Employees' Retirement System.
- (3) "Director" means the Director of the Retirement Systems Division of the North Carolina Department of State Treasurer. The Director shall promptly transmit to the State Treasurer all moneys collected on behalf of members, which moneys shall be deposited by the State Treasurer into the fund
- (4) "Eligible fire department" means bona fide fire departments which are certified to the Commissioner of Insurance by the governing body thereof, and determined as classified as not less than class "9S," and said fire department holds training sessions not less than four hours monthly.
- (5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.
- (6) "Eligible rescue or emergency medical services squad" means organized rescue squad units eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc.
- (7) "Eligible rescue squad worker" means all persons 18 years of age or older who are members of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also mean those persons meeting the other qualifications of this Article.
- (8) "Fully credited service" means a period of time for which the Board has received certification that a member has met all eligibility requirements for participation in the Pension Fund and for which the Board has received timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may purchase fully credited service for any period of service as set forth in G.S. 58-86-45.
- (9) "Inactive member" means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is not making timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40.
- (10) "Member" means an eligible firefighter or eligible rescue squad worker who has elected to participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

(13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

~~§ 58-86-5. Creation and membership of board of trustees; compensation.~~

~~There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

~~The board shall consist of six members:~~

~~(1) The State Treasurer, who shall act as chairman.~~

~~(2) The State Insurance Commissioner.~~

~~(3) Repealed by Session Laws 1993, c. 9.~~

~~(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

(1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.

(2) A designee of the State Insurance Commissioner.

(3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms. No member of the advisory panel shall receive any salary, compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the advisory panel.

1 **"§ 58-86-10. Powers and duties of the board.**

2 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
3 System shall administer the Pension Fund. The board shall request appropriations out of the
4 general fund for administrative expenses and to provide for the financing of this pension fund,
5 employ necessary clerical assistance, determine all applications for pensions, provide for the
6 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
7 government governance of this fund, prescribe rules and regulations of eligibility of persons to
8 receive pensions, expend funds in accordance with the provisions of this Article, and generally
9 exercise all other powers necessary for the administration of the fund created by this Article.

10 **"§ 58-86-11. Powers and duties of the advisory panel.**

11 The advisory panel shall meet at least once annually upon call of the chair. The advisory
12 panel shall have no administrative authority, but shall prepare an annual report to the Board of
13 Trustees of the North Carolina Local Governmental Employees' Retirement System regarding
14 the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension
15 Fund.

16 ~~**"§ 58-86-15. Director.**~~

17 ~~There is created an office to be known as Director of the North Carolina Firemen's and~~
18 ~~Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its~~
19 ~~pleasure. The director shall be subject to the provisions of the State Personnel Act. The director~~
20 ~~shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall~~
21 ~~be deposited by the State Treasurer into the fund.~~

22 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
23 **fund; expenditures.**

24 The State Treasurer shall be the custodian of the North Carolina Firemen's Firefighters' and
25 Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the
26 provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General
27 Assembly out of the general fund to provide money for administrative expenses shall be
28 handled in the same manner as any other general fund appropriation. One-fourth of the
29 appropriation made out of the general fund to provide for the financing of the pension fund
30 shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's
31 Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State
32 Treasurer's office a special fund to be known as the North Carolina Firemen's Firefighters' and
33 Rescue Squad Workers' Pension Fund, and all contributions made by the members of this
34 pension fund shall be deposited in the special fund. All expenditures for refunds, investments or
35 benefits shall be in the same manner as expenditures of other special funds.

36 ~~**"§ 58-86-25. "Eligible firemen" defined; determination**~~**Determination and certification of**
37 ~~**volunteers meeting qualifications. eligible firefighters.**~~

38 ~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political~~
39 ~~subdivision thereof, including those performing such functions in the protection of life and~~
40 ~~property through fire fighting within a county or city governmental unit and so certified to the~~
41 ~~Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire~~
42 ~~department which, as determined by the Commissioner, is classified as not less than class "9"~~
43 ~~or class "A" and "AA" departments in accordance with rating methods, schedules,~~
44 ~~classifications, underwriting rules, bylaws or regulations effective or applied with respect to the~~
45 ~~establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter~~
46 ~~or by such other reasonable methods as the Commissioner may determine, and which operates~~
47 ~~fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said~~
48 ~~fire department holds drills and meetings not less than four hours monthly and said firemen~~
49 ~~attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall~~
50 ~~also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire~~
51 ~~marshal, assistant fire marshal, or firefighter of the county, provided the board of county~~

commissioners of that county certifies the employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. ~~"Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report the names of those firemen firefighters meeting the eligibility qualifications of this section~~ Article to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this ~~section~~ Article to the State Treasurer by January 31 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue squad worker" in order to receive double benefits available under this Article.

~~"§ 58-86-30. "Eligible rescue squad worker" defined; determination~~Determination and certification of eligibility."eligible rescue squad worker."

~~"Eligible rescue squad worker" means a person who is a member of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and who has attended a minimum of~~Eligible rescue squad workers must attend at least 36 hours of training and meetings in the last sessions in each calendar year. Each rescue or emergency medical services squad eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster certified by the secretary of the association of those rescue or emergency medical services squad workers meeting the requirements of this section with the State Treasurer by January 31 of each calendar year.

~~"Eligible rescue squad worker" does not mean "eligible fireman" as defined by G.S. 58-86-25, nor may an~~ An "eligible rescue squad worker" may not qualify also as an ~~"eligible fireman"~~firefighter in order to receive double benefits available under this Article.

~~"§ 58-86-35. Firemen's~~Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those ~~firemen~~ firefighters who are eligible pursuant to G.S. 58-86-25 may make ~~application for membership to the board~~apply to the board for membership. Each ~~fireman~~firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after~~March 31, subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31, subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

~~"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members; termination of membership.~~

Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than ~~90 days after~~ March 31, subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31, subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at ~~anytime~~ any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

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

~~(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire department or rescue squad chartered by the State of North Carolina and who has not previously elected to become a member may make application through the board of trustees for membership in the fund on or before March 31, 2001. The person shall make a lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to become a member, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making the lump sum payment, the person shall be given credit for all prior service in the same manner as if he had made application for membership at the time he first became eligible. Any member who made application for membership subsequent to the time he was first eligible and did not receive credit for prior service may receive credit for this prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year of his retroactive payments. Upon making this lump sum payment, the date of membership shall be the same as if he had made application for membership at the time he was first eligible. Any fireman or rescue squad worker who has applied for prior service under this subsection shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1) of this section.~~

~~(a1) Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a current or former member of a fire department or rescue squad chartered by the State of North Carolina may purchase credit for any periods of service to any chartered fire department or rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings Fund equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, which payment shall take into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on a retirement allowance, as determined by the board of trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the board of trustees. This provision for the payment of a lump sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service credits for months as to which timely payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

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

1 service in the same manner as if the worker had applied for membership upon first becoming
2 eligible.

3 A member who is not yet 35 years old may receive credit for the prior service upon making
4 a lump sum payment of ten dollars (\$10.00) for each month since the worker first became
5 eligible, plus interest at an annual rate to be set by the board for each year of retroactive
6 payments. Upon making this lump sum payment, the date of membership shall be the same as if
7 the worker had applied for membership upon first becoming eligible.

8 **"§ 58-86-55. Monthly pensions upon retirement.**

9 Any member who has served 20 years as an "eligible fireman" ~~firefighter~~ or "eligible
10 rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
11 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
12 pension from this fund. The monthly pension shall be in the amount of one hundred seventy
13 dollars (\$170.00) per month. Any retired fireman ~~firefighter~~ receiving a pension shall, effective
14 July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

15 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
16 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall
17 receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder
18 until the member's official duties as a fireman or rescue squad worker for which the member is
19 paid compensation shall have been terminated and the member shall have retired as such
20 according to standards or rules fixed by the board of trustees.~~

21 A member who is totally and permanently disabled while in the discharge of the member's
22 official duties as a result of bodily injuries sustained or as a result of extreme exercise or
23 extreme activity experienced in the course and scope of those official duties and who leaves the
24 fire or rescue squad service because of this disability shall be entitled to be paid from the fund a
25 monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning
26 the first month after the member's fifty-fifth birthday. All applications for disability are subject
27 to the approval of the board who may appoint physicians to examine and evaluate the disabled
28 member prior to approval of the application, and annually thereafter. Any disabled member
29 shall not be required to make the monthly payment of ten dollars (\$10.00) as required by
30 G.S. 58-86-35 and G.S. 58-86-40.

31 A member who is totally and permanently disabled for any cause, other than line of duty,
32 who leaves the fire or rescue squad service because of this disability and who has at least 10
33 years of service with the pension fund, may be permitted to continue making a monthly
34 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
35 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
36 a pension as provided by this section. All applications for disability are subject to the approval
37 of the board who may appoint physicians to examine and evaluate the disabled member prior to
38 approval of the application and annually thereafter.

39 A member who, because ~~his~~ the member's residence is annexed by a city under Part 2 or
40 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
41 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
42 General Statutes, or whose volunteer department is taken over by a city or county, and because
43 of such annexation or takeover is unable to perform as a fireman ~~firefighter~~ or rescue squad
44 worker of any status, and if the member has at least 10 years of service with the pension fund,
45 may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund
46 until the member has made contributions for a total of 240 months. The member upon attaining
47 the age of 55 years and completion of such contributions shall be entitled to receive a pension
48 as provided by this section. Any application to make monthly contributions under this section
49 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
50 member.

The pensions provided shall be in addition to all other pensions or benefits under any other statutes of the State of North Carolina or the United States, notwithstanding any exclusionary provisions of other pensions or retirement systems provided by law.

"§ 58-86-60. Payments in lump sums.

The board shall direct payment in lump sums from the fund in the following cases:

- (1) To any ~~fireman~~firefighter or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the fund, an amount equal to the amount paid into the fund by him. This provision shall not be construed to preclude any active ~~fireman~~firefighter or rescue squad worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle ~~him~~the firefighter or rescue squad worker to the pension.
- (2) If any ~~fireman~~firefighter or rescue squad worker dies before attaining the age at which a pension is payable to ~~him~~the firefighter or rescue squad worker under the provisions of this Article, there shall be paid to his ~~widow, or her surviving spouse,~~ or if there be no ~~widow, surviving spouse,~~ to the person responsible for his ~~or her~~ child or children, or if there be no ~~widow, surviving spouse~~ or children, then to his ~~or her~~ heirs at law as may be determined by the board or to his ~~or her~~ estate, if it is administered and there are no heirs, an amount equal to the amount paid into the member's separate account by or on behalf of the said ~~fireman~~firefighter or rescue squad worker.
- (3) If any ~~fireman~~firefighter or rescue squad worker dies after beginning to receive the pension payable to ~~him~~the firefighter or rescue squad worker by this Article, and before receiving an amount equal to the amount paid into the fund by ~~him, him or her,~~ there shall be paid to his ~~widow, or her surviving spouse,~~ or if there be no ~~widow, surviving spouse,~~ then to the person responsible for his ~~or her~~ child or children, or if there be no ~~widow, surviving spouse~~ or children, then to his ~~or her~~ heirs at law as may be determined by the board or to his ~~or her~~ estate, if it is administered and there are no heirs, an amount equal to the difference between the amount paid into the member's separate account by or on behalf of the said ~~fireman~~firefighter or rescue squad worker and the amount received by him ~~or her~~ as a pensioner.
- (4) Any member ~~with five or more years of contributing service and who withdraws from the fund shall, upon proper application, be paid all moneys without accumulated earnings on the payments after the time they were made. If any member who has less than five years of contributing service made contributions, or any person, firm, corporation, or other entity has made contributions on behalf of that member and that member withdraws from the fund, the member, person, firm, corporation, or other entity shall be entitled to a refund equal to the amount of contributions made by them after the Board has been notified of the contributor's desire to be refunded its contributions upon the member's withdrawal. A member may not purchase time under G.S. 58-86-45 for which he or she has received a refund.~~

"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.

If, for any reason, the fund created and made available for any purpose covered by this Article shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

"§ 58-86-70. Provisions subject to future legislative change.

1 These pensions shall be subject to future legislative change or revision, and no member of
2 the fund, or any person, is deemed to have acquired any vested right to a pension or other
3 payment provided by this Article.

4 **"§ 58-86-75. Determination of creditable service; information furnished by applicants for**
5 **membership.**

6 The board shall determine by appropriate rules and regulations the number of years' credit
7 for service of ~~firemen~~ firefighters and rescue squad workers. ~~Firemen~~ Firefighters and rescue
8 squad workers who are now serving as such shall furnish the board with information upon
9 applying for membership as to previous service. Notwithstanding any other provisions of this
10 Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad
11 workers under such terms and conditions that the Board may adopt when the Board determines
12 that an eligible ~~fireman~~ firefighter or rescue squad worker has been denied such service credits
13 through no fault of his or her own.

14 **"§ 58-86-80. Length of service not affected by serving in more than one department or**
15 **squad; transfer from one department or squad to another.**

16 A ~~fireman's~~ firefighter's or rescue squad worker's length of service shall not be affected by
17 the fact that he or she may have served with more than one department or squad, and upon
18 transfer from one department or squad to another, notice of the fact shall be given to the board.

19 **"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.**

20 Except for the applications of the provisions of G.S. 110-136, and in connection with a
21 court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to
22 attachment, garnishments or judgments against the ~~fireman~~ firefighter or rescue squad worker
23 entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

24 ~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations~~
25 ~~allowed.~~

26 ~~Any member who is a member of a domiciled employees' or retirees' association that has at~~
27 ~~least 2,000 members, the majority of whom are active or retired employees of the State or~~
28 ~~public school employees, may authorize, in writing, the periodic deduction from the member's~~
29 ~~retirement benefits a designated lump sum to be paid to the employees' or retirees' association.~~
30 ~~The authorization shall remain in effect until revoked by the member. A plan of deductions~~
31 ~~pursuant to this section shall become void if the employees' or retirees' association engages in~~
32 ~~collective bargaining with the State, any political subdivision of the State, or any local school~~
33 ~~administrative unit.~~

34 **"§ 58-86-95. Leaves of absence; inactive membership.**

35 (a) Any member who resigns as an eligible firefighter or an eligible rescue squad
36 worker, whichever is applicable, may withdraw from the fund and seek a refund under
37 G.S. 58-86-60 or take a leave of absence as provided by 58-86-95, or he or she will be
38 considered an inactive member.

39 (b) In order to take a leave of absence, any member not on active military service must
40 provide the office of the director with written notice that the member is taking a leave of
41 absence. Any member not on active military service on leave of absence for more than five
42 years in any six-year period shall be considered an inactive member.

43 (c) A member is not eligible for service credit for the time he or she is on leave of
44 absence and is not required to make monthly payments for that time. During the time a member
45 is on leave of absence, he or she is not eligible for benefits from the pension fund. A member
46 who has taken a leave of absence may subsequently withdraw from the pension fund and seek a
47 refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the
48 appropriate person or persons may seek a refund under G.S. 58-86-60.

49 (d) Any member not on active military service who does not make contributions for two
50 consecutive years and has not taken a leave of absence shall be considered an inactive member.

(c) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

...
(4) North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).

...."

SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...
(6) The ~~Firemen's~~Firefighters' and Rescue Workers' Pension Fund.

...

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

...

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

- (1) Solely in the interest of the participants and beneficiaries.

- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems."

SECTION 1.(f) G.S. 147-69.8 reads as rewritten:

"§ 147-69.8. Annual report on new investment authority.

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made during the first six months of each calendar year, covering performance in the prior calendar year. As to each type of new investment authority, the report shall be made for at least four years."

SECTION 2.(a) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring disrepute on a fire department or rescue squad.

(a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is not yet 55 years of age or has not yet received 20 years of fully credited service, or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant in an eligible fire department or eligible rescue squad.
- (2) The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad worker and brings disrepute on a fire department or rescue squad.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal procedure that the offense is directly related to service as a firefighter or rescue squad worker.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions, subsequently receives an unconditional pardon of innocence, or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all accumulated contributions. Repayment of all accumulated contributions that have been received by the individual under the forfeiture provisions of this section must be made in a total

1 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
2 reinstatement of the service credit forfeited."

3 **SECTION 2.(b)** G.S. 15A-1340.16(d) is amended by adding a new subdivision to
4 read:

5 "(9a) The defendant is a firefighter or rescue squad worker and the offense is
6 directly related to service as a firefighter or rescue squad worker."

7 **SECTION 2.(c)** G.S. 58-86-95, as enacted by Section 1 of this act, reads as
8 rewritten:

9 **"§ 58-86-95. Leaves of absence; inactive ~~membership~~; membership; felony forfeiture.**

10 ...
11 (h) If a member who is in service and has not received 20 years of fully credited service
12 in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for
13 acts committed after December 1, 2013, then that member shall forfeit all benefits under this
14 System, except for a return of member contributions. If a member who is in service and has not
15 received 20 years of fully credited service in this System on December 1, 2013, is convicted of
16 an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that
17 member is not entitled to any fully credited service that accrued after December 1, 2013."

18 **SECTION 3.** S.L. 2012-193, Section 17, reads as rewritten:

19 **"SECTION 17.** The State Treasurer shall negotiate a memorandum of agreement with the
20 United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina
21 whereby the prosecutors will notify the State Treasurer of convictions under
22 G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and 135-5.1(h),~~
23 ~~135-5.4(h), and 58-86-100(b).~~135-5.4(h)."

24 **SECTION 4.** Section 2 of this act becomes effective December 1, 2013, and
25 applies to offenses committed on or after that date. The remainder of this act becomes effective
26 July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Retirement Note

RETIREMENT

BILL NUMBER: Senate Bill 304 (First Edition)

SHORT TITLE: Fire and Rescue Pension Revisions of 2013.

SPONSOR(S): Senators Meredith and Newton

FUNDS AFFECTED: State General Fund

SYSTEM OR PROGRAM AFFECTED: North Carolina Firemen's and Rescue Squad Workers' Pension Fund

EFFECTIVE DATE: Section 2 becomes effective December 1, 2013 and the remainder becomes effective July 1, 2013.

BILL SUMMARY:

(1) Updates language in Article 86 of G. S. Chapter 58 to make the provisions gender neutral; for example, replaces "firemen" with "firefighters." Also makes provisions regarding firefighters being referred to in a gender neutral manner in G. S. 25-9-406(i), G. S. 25-9-408(f), G. S. 147-69.2, G. S. 147-69.7(a), and G. S. 147-69.8.

(2) Enacts new G. S. 58-86-2 to add a definitions section to Article 86 for words and phrases as used in this Article.

(3) Deletes G. S. 58-86-5 to eliminate the six-member Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers. Enacts G. S. 58-86-6 to create the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel (the advisory panel).

(4) Provides that the advisory panel is to have seven members: (1) the director of the Retirement Systems Division of the North Carolina Department of State Treasurer, serving as chair; (2) a designee of the State Insurance Commissioner; and (3) five members appointed by the Board of Trustees of the Local Governmental Employees Retirement System (Board) that meet specified requirements. Allows members of the advisory panel to succeed themselves if they are reappointed by the Board. Also allows the persons who are serving on the Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers on June 30, 2013, to serve as members of the advisory panel created in this act until their current terms expire.

(5) Directs the Board to administer the Pension Fund.

(6) Requires the advisory panel to meet at least once a year at the call of the chair. Provides that the advisory panel does not have any administrative authority, but requires the advisory panel to submit an annual report to the Board on the status and needs of the pension fund.

(7) Amends G. S 58-86-15, deleting the office of the Director of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund.

(8) Amends G. S 58-86-25 to delete the definition of eligible firemen (now moved to the definitions section in new G. S 58-86-2 and titled eligible firefighters). Requires eligible firefighters to attend 36 hours of training in each calendar year. Directs each eligible fire department (was, department) to annually report the names of the firefighters who meet the eligibility requirements under this Article to its respective governing body. Prohibits an eligible firefighter from also qualifying as an eligible rescue squad worker in order to receive double benefits under Article 86 of G. S Chapter 58. Amends G. S 58-86-30 to make the same changes as above applicable to an eligible rescue squad worker, including the prohibition against receiving double benefits.

(9) Amends G. S 58-86-35 (firefighters) and G. S 58-86-40 (rescue squad workers) to require that firefighters and rescue squad workers who are members of the fund make each monthly payment to the fund no later than March 31 following the end of the year in which the month occurred (was, 90 days after the end of the calendar year in which the month occurred). Provides that the pension fund does not award fully credited service based on payments after March 31, subsequent to the end of the calendar year in which the month occurred unless the payment is a lump sum payment as provided in G. S 58-86-45(a1).

(10) Amends G. S 58-86-45 by deleting outdated provisions regarding retroactive membership in the pension fund. Applies provision regarding a lump sum payment for service "otherwise not creditable" to all purchases of service credit for months for which timely payments were not previously made under G. S 58-86-35 or G. S 58-86-40.

(11) Amends G. S 58-86-55 by deletes provision that prohibited a member from receiving a pension until the member's official duties as a fireman or rescue squad worker, for which the member received compensation, had been terminated and the member had retired.

(12) Amends subdivision (4) of G. S 58-86-60 to permit any member to withdraw from the fund, upon proper application, and receive a lump sum payment (was, made a distinction based on five or more years of contributing service and less than five years of contributing service). Provides that a member may not purchase time under G. S. 58-86-45 for which the member has received a refund.

(13) Deletes G. S. 58-86-91, which allowed periodic deductions from a member's retirement benefits to be paid to an employees' or retirees' association meeting certain criteria.

(14) Enacts new G. S. 58-86-95 to provide that members who resign as eligible firefighters or eligible rescue squad workers have the option of withdrawing from the fund and seeking a refund under G. S. 58-86-60 or taking a leave of absence under this section, or the member will be considered inactive. Requires any member not on active military service to provide written notice

to the office of the director that the member is taking a leave of absence. Requires members on active military service to provide notice to the director before beginning active service and again upon returning from active duty. Provides additional criteria regarding leaves of absence and inactive membership.

(15) Enacts new G. S. 58-86-100, effective December 1, 2013, to provide for the forfeiture of retirement benefits, except for a return of member contributions, for members convicted of certain felonies that would bring disrepute on a fire department or rescue squad. Applies to convictions under federal or state law meeting the specifications as detailed in this section. Provides for a member or former member to seek a reversal of a benefits forfeiture if the member subsequently receives a pardon, or the conviction is vacated or set aside for any reason, by presenting sufficient evidence to the State Treasurer.

(16) Amends G. S. 15A-1340.16(d) to establish as an aggravating factor a defendant who is a firefighter or rescue squad worker and commits an offense that is directly related to service as a firefighter or rescue squad worker. Enacts new subdivision (h) to G. S. 58-86-95 to provide that a member with less than 20 years of fully credited service in this system as of December 1, 2013, and is convicted of certain offenses committed after December 1, 2013, forfeits all benefits except for a return of member contributions, and is not entitled to any fully credited service accruing after December 1, 2013. This section becomes effective December 1, 2013.

ESTIMATED IMPACT ON STATE:

	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>
Total Annual Cost	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000	\$1,400,000

This cost is associated with the change that deletes provision that prohibited a member from receiving a pension until the member's official duties as a fireman or rescue squad worker, for which the member received compensation, had been terminated and the member had retired.

ASSUMPTIONS AND METHODOLOGY:

Firemen and Rescue Squad Workers' Pension Fund

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the June 30, 2012 actuarial valuation of the fund. The data included 40,870 active members, 11,912 retired members in receipt of annual pensions totaling \$24.3 million and actuarial value of assets equal to \$338.9 million. Significant actuarial assumptions used include (a) an investment return rate of 7.25% which includes inflation of 3%, (b) RP-2000 Mortality tables for retirees are set forward two year for all retirees, (c) RP-2000 Mortality tables for disabled retirees are set back six years for males and set forward one year for females, (d) RP-2000 Mortality tables for active employees are set forward two years for all members, (e) rates of separation from active service based on Fund's experience. The actuarial cost method used was the entry age method with level dollar closed amortization method and an amortization period of nine years. Detailed information concerning these assumptions and methods are shown in the actuary's report, which is available upon request from Stanley Moore.

SOURCES OF DATA: Buck Consultants
Hartman & Associates, LLC

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910. The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: Stanley Moore

APPROVED BY: Mark Trogdon, Director
Fiscal Research Division

DATE: April 3, 2013



Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE BILL 346

Short Title: Career Fire and Rescue Retirement.

(Public)

Sponsors: Senators Hartsell (Primary Sponsor); Apodaca and Jenkins.

Referred to: Pensions & Retirement and Aging.

March 19, 2013

A BILL TO BE ENTITLED
AN ACT TO DEFINE CAREER FIREFIGHTER AND CAREER RESCUE SQUAD
WORKER ACCRUAL RATES FOR MEMBERS AND BENEFICIARIES OF THE
LOCAL GOVERNMENTAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-21 is amended by adding two new subdivisions to read:

(7b) "Career firefighter" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a fire department certified by the North Carolina Department of Insurance and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.

(7c) "Career rescue squad worker" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in difficulty, who are injured, or who become suddenly ill by providing proper and efficient care or emergency medical services."

SECTION 2. G.S. 128-24(5) reads as rewritten:

(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

a. Notwithstanding any other provision of this Chapter, any member who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be



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retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated requirement of 12 or more years of creditable service shall be reduced to five or more years of creditable service. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or eligible former law enforcement officer.

- b. In lieu of the benefits provided in paragraph a of this subdivision, any member who separates from service prior to the attainment of the age of 60 years, for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement ~~officer-officer~~, career firefighter, or career rescue squad worker at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System, may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or written application to the Board of Trustees setting forth at what

time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers-officers~~, career firefighters, or career rescue squad workers.

b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement ~~officer-officer~~, career firefighter, or career rescue squad worker at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred service retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred service retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers-officers~~, career firefighters, or career rescue squad workers.

b3. Deferred retirement allowance of members retiring on or after July 1, 1995. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who separates from service prior to attainment of age 60 years, after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on a deferred retirement allowance upon attaining the age of 50 years or any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or an eligible former law enforcement officer.

c. Should a beneficiary who retired on an early or service retirement allowance be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part-time, temporary, interim, or on fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be

suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

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

- d. Should a beneficiary who retired on an early or service retirement allowance be restored to service as an employee, then the retirement allowance shall cease as of the first day of the month following the month in which the beneficiary is restored to service and the beneficiary shall become a member of the Retirement System and shall contribute thereafter as allowed by law at the uniform contribution payable by all members.

Upon his subsequent retirement, he shall be paid a retirement allowance determined as follows:

1. For a member who earns at least three years' membership service after restoration to service, the retirement allowance shall be computed on the basis of his compensation and service before and after the period of prior retirement without restriction; provided, that if the prior allowance was based on a social security leveling payment option, the allowance shall be adjusted actuarially for the difference between the amount received under the optional payment and what would have been paid if the retirement allowance had been paid without optional modification. In the alternative, the member may

1 receive a refund of the member's accumulated contributions
2 for the period of service after restoration to service in
3 accordance with G.S. 128-27(f).

- 4 2. For a member who does not earn three years' membership
5 service after restoration to service, the retirement allowance
6 shall be equal to the sum of the retirement allowance to which
7 he would have been entitled had he not been restored to
8 service, without modification of the election of an optional
9 allowance previously made, and the retirement allowance that
10 results from service earned since being restored to service;
11 provided, that if the prior retirement allowance was based on
12 a social security leveling payment option, the prior allowance
13 shall be adjusted actuarially for the difference between the
14 amount that would have been paid for each month had the
15 payment not been suspended and what would have been paid
16 if the retirement allowance had been paid without optional
17 modification. In the alternative, the member may receive a
18 refund of the member's accumulated contributions for the
19 period of service after restoration to service in accordance
20 with G.S. 128-27(f), or the member may allow this new
21 account to remain inactive.

- 22 (5a) Notwithstanding the provisions of paragraphs c and d of the subdivision (5)
23 to the contrary, a beneficiary who was a beneficiary retired on an early or
24 service retirement with the Law Enforcement Officers' Retirement System at
25 the time of the transfer of law enforcement officers employed by a
26 participating employer and beneficiaries last employed by a participating
27 employer to this Retirement System on January 1, 1986, and who also was a
28 contributing member of this Retirement System on January 1, 1986, shall
29 continue to be paid his retirement allowance without restriction and may
30 continue as a member of this Retirement System with all the rights and
31 privileges appendant to membership. Any beneficiary who retired on an
32 early or service retirement allowance as an employee of any participating
33 employer under the Law Enforcement Officers' Retirement System and
34 becomes employed as an employee by an employer participating in the
35 Retirement System after January 1, 1986, becomes subject to the provisions
36 of G.S. 128-24(5)c. and G.S. 128-24(5)d. on and after January 1, 1989.

- 37 (6) Employees of a sending agency participating in an intergovernmental
38 exchange of personnel under the provisions of Article 10 of Chapter 126
39 shall remain members entitled to all benefits of the System provided that the
40 requirements of Article 10 of Chapter 126 are met; provided further, that a
41 member may retain membership status while serving as an assigned
42 employee or employee on leave under the provisions of Article 10 of
43 Chapter 126 for purposes of receiving the death benefit regardless of
44 whether he and his employer are contributing to his account during the
45 exchange period except that no duplicate benefits shall be paid."

46 **SECTION 3. G.S. 128-27(a) reads as rewritten:**

- 47 "(a) Service Retirement Benefits. –

- 48 (1) Any member may retire upon electronic submission or written application to
49 the Board of Trustees setting forth at what time, as of the first day of a
50 calendar month, not less than one day nor more than 120 days subsequent to
51 the execution and filing thereof, he desires to be retired: Provided, that the

said member at the time so specified for his retirement shall have attained the age of 60 years and have at least five years of creditable service or shall have completed 30 years of creditable service, or if a ~~fireman, he~~ career firefighter or career rescue squad worker, the member shall have attained the age of 55 years and have at least five years of creditable service.

(2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

(3) Repealed by Session Laws 1971, c. 325, s. 12.

(4) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired.

(5) Any member who is a law enforcement officer, career firefighter, or career rescue squad worker and who attains age 50 and completes 15 or more years of creditable service in this capacity or who attains age 55 and completes five or more years of creditable service in this capacity, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, ~~he~~ the member desires to be retired; provided, also, any member who has met the conditions required by this subdivision but does not retire, and later becomes an employee other than as a law enforcement officer, career firefighter, or career rescue squad worker continues to have the right to commence retirement."

SECTION 4. G.S. 128-27(b21) reads as rewritten:

"(b21) Service Retirement Allowance of Member Retiring on or After ~~July 1, 2003~~ July 1, 2003, but Before July 1, 2013. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2013, a member shall receive the following service retirement allowance:

(1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of his average final compensation, multiplied by the number of years of his creditable service.

b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b21)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;

2. The service retirement allowance as computed under G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the

1 difference between 30 years and his creditable service at
2 retirement.

- 3 (2) A member who is not a law enforcement officer or an eligible former law
4 enforcement officer shall receive a service retirement allowance computed
5 as follows:

6 a. If the member's service retirement date occurs on or after his 65th
7 birthday upon the completion of five years of creditable service or
8 after the completion of 30 years of creditable service or on or after
9 his 60th birthday upon the completion of 25 years of creditable
10 service, the allowance shall be equal to one and eighty-five
11 hundredths percent (1.85%) of average final compensation,
12 multiplied by the number of years of creditable service.

13 b. If the member's service retirement date occurs after his 60th birthday
14 and before his 65th birthday and prior to his completion of 25 years
15 or more of creditable service, his retirement allowance shall be
16 computed as in G.S. 128-27(b21)(2) a. but shall be reduced by
17 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
18 which his retirement date precedes the first day of the month
19 coincident with or next following his 65th birthday.

20 c. If the member's early service retirement date occurs on or after his
21 50th birthday and before his 60th birthday and after completion of 20
22 years of creditable service but prior to the completion of 30 years of
23 creditable service, his early service retirement allowance shall be
24 equal to the greater of:

25 1. The service retirement allowance as computed under
26 G.S. 128-27(b21)(2)a. but reduced by the sum of
27 five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for each
28 month by which his retirement date precedes the first day of
29 the month coincident with or next following the month the
30 member would have attained his 60th birthday, plus
31 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month
32 by which his 60th birthday precedes the first day of the month
33 coincident with or next following his 65th birthday; or

34 2. The service retirement allowance as computed under
35 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
36 difference between 30 years and his creditable service at
37 retirement; or

38 3. If the member's creditable service commenced prior to July 1,
39 1995, the service retirement allowance equal to the actuarial
40 equivalent of the allowance payable at the age of 60 years as
41 computed in G.S. 128-27(b21)(2)b.

42 d. Notwithstanding the foregoing provisions, any member whose
43 creditable service commenced prior to July 1, 1965, shall not receive
44 less than the benefit provided by G.S. 128-27(b)."

45 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

46 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2013. – Upon
47 retirement from service in accordance with subsection (a) or (a1) of this section, on or after
48 July 1, 2013, a member shall receive the following service retirement allowance:

49 (1) A member who is a law enforcement officer, a career firefighter, a career
50 rescue squad worker, or an eligible former law enforcement officer, career

1 firefighter, or career rescue squad worker shall receive a service retirement
2 allowance computed as follows:

3 a. If the member's service retirement date occurs on or after the
4 member's 55th birthday and completion of five years of creditable
5 service as a law enforcement officer, career firefighter, or career
6 rescue squad worker, or after the completion of 30 years of creditable
7 service, the allowance shall be equal to one and eighty-five
8 hundredths percent (1.85%) of the member's average final
9 compensation, multiplied by the number of years of the member's
10 creditable service.

11 b. If the member's service retirement date occurs on or after the
12 member's 50th birthday and before the member's 55th birthday with
13 15 or more years of creditable service as a law enforcement officer,
14 career firefighter, or career rescue squad worker and prior to the
15 completion of 30 years of creditable service, the member's retirement
16 allowance shall be equal to the greater of:

17 1. The service retirement allowance payable under
18 G.S. 128-27(b21)(1)a. reduced by one-third of one percent
19 (1/3 of 1%) thereof for each month by which the member's
20 retirement date precedes the first day of the month coincident
21 with or next following the month the member would have
22 attained the member's 55th birthday; or

23 2. The service retirement allowance as computed under
24 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the
25 difference between 30 years and the member's creditable
26 service at retirement.

27 (2) A member who is not a law enforcement officer, a career firefighter, a career
28 rescue squad worker, or an eligible former law enforcement officer, career
29 firefighter, or career rescue squad worker shall receive a service retirement
30 allowance computed as follows:

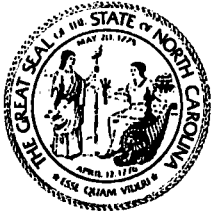
31 a. If the member's service retirement date occurs on or after the
32 member's 65th birthday upon the completion of five years of
33 creditable service or after the completion of 30 years of creditable
34 service or on or after the member's 60th birthday upon the
35 completion of 25 years of creditable service, the allowance shall be
36 equal to one and eighty-five hundredths percent (1.85%) of average
37 final compensation, multiplied by the number of years of creditable
38 service.

39 b. If the member's service retirement date occurs after the member's
40 60th birthday and before the member's 65th birthday and prior to the
41 member's completion of 25 years or more of creditable service, the
42 member's retirement allowance shall be computed as in
43 G.S. 128-27(b21)(2)a. but shall be reduced by one-fourth of one
44 percent (1/4 of 1%) thereof for each month by which the member's
45 retirement date precedes the first day of the month coincident with or
46 next following the member's 65th birthday.

47 c. If the member's early service retirement date occurs on or after the
48 member's 50th birthday and before the member's 60th birthday and
49 after completion of 20 years of creditable service but prior to the
50 completion of 30 years of creditable service, the member's early
51 service retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance as computed under
2 G.S. 128-27(b21)(2)a. but reduced by the sum of
3 five-twelfths of one percent (5/12 of 1%) thereof for each
4 month by which the member's retirement date precedes the
5 first day of the month coincident with or next following the
6 month the member would have attained the member's 60th
7 birthday, plus one-fourth of one percent (¼ of 1%) thereof for
8 each month by which the member's 60th birthday precedes
9 the first day of the month coincident with or next following
10 the member's 65th birthday; or
11 2. The service retirement allowance as computed under
12 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
13 difference between 30 years and the member's creditable
14 service at retirement; or
15 3. If the member's creditable service commenced prior to July 1,
16 1995, the service retirement allowance equal to the actuarial
17 equivalent of the allowance payable at the age of 60 years as
18 computed in G.S. 128-27(b21)(2)b.
19 d. Notwithstanding the foregoing provisions, any member whose
20 creditable service commenced prior to July 1, 1965, shall not receive
21 less than the benefit provided by G.S. 128-27(b)."

22 SECTION 6. This act becomes effective July 1, 2013, and applies to persons
23 retiring on or after that date.



SENATE BILL 346: Career Fire and Rescue Retirement

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Sen. Hartsell
Analysis of: First Edition

Date: May 1, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *Senate Bill 346 allows career firefighters and career rescue squad workers to have the same age and service requirements as law enforcement officers for retirement in the Local Governmental Employees' Retirement System.*

BILL ANALYSIS:

Senate Bill 346 makes changes to the Local Governmental Employees' Retirement System (LGERS) related to career firefighters and career rescue squad workers.

Section 1 of SB 346 amends G.S. 128-21 to provide the following definitions for career firefighter and career rescue squad worker:

"Career firefighter" means a person

- (i) who is a full-time paid employee of an employer that participates in the LGERS and maintains a fire department certified by the North Carolina Department of Insurance and
- (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.

"Career rescue squad worker" means a person

- (i) who is a full-time paid employee of an employer that participates in the LGERS and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and
- (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in difficulty, who are injured, or who become suddenly ill by providing proper and efficient care or emergency medical services.

Sections 2, 3, 4, 5 amend the relevant LGERS membership and service retirement benefit sections to allow career firefighters and career rescue squad workers to retire on an unreduced retirement at age 55 with 5 years of service or at any age with 30 years of services; or retire with reduced benefits at age 50 with 15 years. These are the same age and service requirements provided for law enforcement officers.

EFFECTIVE DATE:

Senate Bill 346 would become effective after July 1, 2013 and apply to persons retiring on or after that date.



GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Retirement Note

RETIREMENT

BILL NUMBER: Senate Bill 346 (First Edition)
SHORT TITLE: Career Fire and Rescue Retirement.
SPONSOR(S): Senator Hartsell

FUNDS AFFECTED: Local funds from cities, towns and counties

SYSTEM OR PROGRAM AFFECTED: Local Governmental Employees' Retirement System

EFFECTIVE DATE: July 1, 2013

BILL SUMMARY:

Presently firefighters and rescue squad workers can retire on an unreduced retirement benefit after meeting one of the following conditions:

- (1) Age 65 with 5 years of service;
- (2) Age 60 with 25 years of service;
- (3) Any age with 30 years of service.

Reduced retirement benefits are available at age 50 with 20 years or age 60 with 5 years.

Law enforcement officers can retire on an unreduced retirement benefit after meeting one of the following conditions:

- (1) Age 55 with 5 years of service;
- (2) Any age with 30 years of service.

Reduced retirement benefits are available at age 50 with 15 years

This bill will allow firefighter and rescue squad workers to have the same basis age and service requirement as law enforcement officers.

ESTIMATED IMPACT ON LOCAL GOVERNMENTS EMPLOYERS:

Buck Consultants estimates the normal cost to increase by 0.71% of payroll and the accrued liability cost to increase by 0.57% of payroll for all firefighters and rescue squad workers in the Local Governmental Employees' Retirement System. This estimate is based on annual payroll of \$498 million and estimated number of firefighters and rescue squad workers of 10,595 with an average age of 38 and average service of 10 years. The estimated annual cost is as follows:

	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>
Normal Cost	\$3,535,800	\$3,633,035	\$3,732,943	\$3,835,599	\$3,941,078
Accrued Liability Cost	\$2,838,600	\$2,916,662	\$2,996,870	\$3,079,284	\$3,163,964
Total Annual Cost	\$6,374,400	\$6,549,696	\$6,729,813	\$6,914,882	\$7,105,042

Hartman & Associates estimates the normal cost to increase by 0.91% of payroll and the accrued liability cost to increase by 0.71% of payroll for all firefighters and rescue squad workers in the Local Governmental Employees' Retirement System. This estimate is based on annual payroll of \$469.3 million and estimated number of firefighters and rescue squad workers of 10,673. The estimated annual cost is as follows:

	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>	<u>2017-18</u>
Normal Cost	\$4,270,630	\$4,388,072	\$4,508,744	\$4,632,735	\$4,760,135
Accrued Liability Cost	<u>\$3,332,030</u>	<u>\$3,423,661</u>	<u>\$3,517,811</u>	<u>\$3,614,551</u>	<u>\$3,713,951</u>
Total Annual Cost	\$7,602,660	\$7,811,733	\$8,026,556	\$8,247,286	\$8,474,086

ASSUMPTIONS AND METHODOLOGY:

Local Governmental Employees' Retirement System

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2011 actuarial valuation of the fund. The data included 121,638 active members with an annual payroll of \$5.1 billion, 51,700 retired members in receipt of annual pensions totaling \$909 million and actuarial value of assets equal to \$19.3 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.25% which includes inflation of 3%, (b) projected salary increases between 4.25% to 8.55% which includes inflation of 3.5%, (c) RP-2000 Mortality tables for retirees are set forward two years for male general employees, firemen and law enforcement and unadjusted for female general employees, (d) RP-2000 Mortality tables for disabled retirees are set back six years for males and set forward one year for females, (e) RP-2000 Mortality tables for active employees are set forward two years for male general employees, firemen and law enforcement officers and unadjusted for female general employees, (f) rates of separation from active service based on System experience. The actuarial cost method used was the frozen entry age. Gains and losses are reflected in the normal rate. Detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from Stanley Moore.

SOURCES OF DATA: Buck Consultants
Hartman & Associates, LLC

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910. The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: Stanley Moore

APPROVED BY: Mark Trogon, Director
Fiscal Research Division

DATE: April 9, 2013



Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE SERGEANT-AT-ARMS

COMMITTEE: Pensions, Retirement, + Aging

DATE: 5/2/13 ROOM: 1027

1. Ron Spann
2. Ken Kirby
3. Ed Kesler
4. Anderson Meadows
5. _____
6. _____

SENATE PAGES ATTENDING

COMMITTEE: Pensions ROOM: 1027

DATE: 5-2 TIME: 9am

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!.....or else!

Page Name	Hometown	Sponsoring Senator
1. Andrew Cavari	Garner	Barefoot
2. Rae Quann Anderson	Wilson	Bryant
3. Adam Williford	Chapel Hill	Nesbitt
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY AND ADDRESS
Tom Friedman	DST
Bill McGee	DST/Reas
Solari	DST
Beth A. Woods	OSA
Kevin Sigrist	DST
Erin Wynia	NCLM
Fred Bone	Bone & Asso.
Gordon A. Joyner	NCAREMS
Phil Welch	NC STATE FIREMEN'S ASSOC.
Ed Brinson	NCSFA
Joey Webb	Waynesville Fire Dept.
Paul Miller	NCSFA
Kevin S Gordon	NCSFA
Deb Clay	NCSP
Karen Leonard	NCACC
Suzanne Beasley	SEANC
Barry Smith	Carolina Journal

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Townes Maxwell	PSG
Ed Reason	NCRGEA
Gary Robertson	AP

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Phil O'Brien	PFFPNC professional fire fighters and Paramedics, NC
Bryan Lewis	DST
Bill Holmes	Office of State Auditor
Fairy Presnell	NC Retired School Personnel
Linn Bradley	NC DOI OSFM
Chris Agree	DOJ
David Anders	PFFPNC
Kay Emanuel	School of Government
Chris Nichols	Chris A. Nichols PLLC
Al Ripby	NCJC
Thomas Caves, Jr.	NCSBI
Dana Sykes	SVA

Senate Committee on Pensions & Retirement and Aging
Tuesday, June 25, 2013, 9:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 834	Modern State Human Resources Management/RTR.	Representative Collins Representative Burr
HB 327	Fire and Rescue Pension Revisions of 2013.-AB	Representative Howard Representative Elmore Representative Hager Representative Turner
HB 347	Amend Greensboro Firefighters' Retirement.	Representative Faircloth Representative Adams Representative Hardister Representative Harrison
HB 391	Volunteer Service in Retirement.	Representative Boles
HB 551	Amend Wilmington Firefighters' Relief Fund.	Representative Davis Representative Hamilton
HB 402	TRICARE Supplement for Flex Accounts.	Representative Szoka Representative Dockham Representative Ramsey Representative Floyd
HB 161	Mandatory Retirement Age for Magistrates.	Representative Glazier Representative McGrady
HB 176	Charter School Election.	Representative Jordan Representative Alexander

Presentations

Other Business

Adjournment

Senate Committee on Pensions & Retirement and Aging
Tuesday, June 25, 2013 at 9:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 9:00 AM on June 25, 2013 in Room 1027/1128 of the Legislative Building. Nine of ten members were present.

Pages attending:

Sarah Newby of Raleigh (Sen. Curtis), Jacob Fuqua of Hendersonville (Sen. Apodaca), Evan Harakas of Gastonia (Harrington), Jacob Dubois of Hendersonville (Sen. Apodaca), Victoria Fahnestock of Rocky Mount (Sen. Bryant), Ashley King of Sneads Ferry (Sen. Brown)

Senator Tom Apodaca, Chair, presided.

The meeting adjourned at 9:32.

H834: Modern State Human Resources

Fire and Rescue Pension Revisions of 2013, AB

Sponsor- Collins/Burr. Handled by Sen. Tucker. Mr. Neal Alexander of the Office of State Personnel and Ardis Watkins of SEANC stood and offered no opposition to the bill. There was a representative of the #150 of SEIU, Mr. Darian Smith, made comments concerning the bill. Sen. Rabin motioned for Unfavorable as to the Original, Favorable as to the Senate Proposed Committee Substitute (PCS). Motion carried.

H327: Fire and Rescue Pension Revisions of 2013, AB

Sponsor- Howard/Elmore/Hager. Not discussed, but held over to next meeting.

H347: Amend Greensboro Fire Retirement/Charter

Sponsor- Faircloth/Adams/ Hardister/Harrison. Handled by Sen. Wade. Sen. Gunn motioned for Unfavorable as to the Original, Favorable as to the PCS. Motion carried.

H391: Volunteer Service in Retirement

Sponsor- Boles. Handled by Sen. Randleman. Sen. Pate motioned Unfavorable as to the Original, Favorable as to the PCS. Motioned carried.

H551: Amend Wilmington Firefighters' Relief Fund

Sponsor- Davis/Hamilton. Handled by Sen. Walters. Motion for Favorable as to the Original. Motion carried.

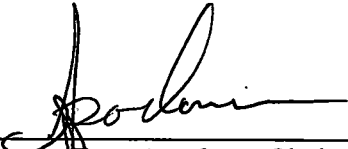
H402: TRICARE Supplement for Flex Accounts

Sponsor- Szoka/Dockham/Ramsey. Handled by Sen. Meredith. Sen. Rabin motioned for Unfavorable as to the Original, Favorable as to the PCS. Motion carried.

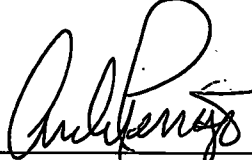
H161: Mandatory Retirement Age for Magistrates.

Sponsor- Glazier/McGrady/Jordan. Handled by FRD staff Stanley Moore. Motion by Sen. Randleman for Favorable as to the Original. Motion carried.

H176: Sponsor- Alexander. Handled by FRD staff Stanley Moore. Motion by Sen. Hise for Favorable as to the Original. Motion carried.



Senator Tom Apodaca, Chair
Presiding



Andy Perrigo, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Tuesday, June 25, 2013

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 161 (CS#1) **Mandatory Retirement Age for Magistrates.**
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB 176 **Charter School Election.**
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

HB 551 (CS#1) **Amend Wilmington Firefighters Relief Fund.**
Draft Number: None
Sequential Referral: None
Recommended Referral: None
Long Title Amended: No

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 347 **Amend Greensboro Firefighters Retirement.**
Draft Number: H347-PCS70466-SH-22
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

HB 391 **Volunteer Service in Retirement.**
Draft Number: H391-PCS70465-LL-25
Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

HB 402 **TRICARE Supplement for Flex Accounts.**
Draft Number: H402-PCS30576-SH-24



Sequential Referral: None
Recommended Referral: None
Long Title Amended: Yes

o

TOTAL REPORTED: 6

Senator Shirley Randleman will handle HB 161
Senator Ralph Hise will handle HB 176
Senator Michael Walters will handle HB 551
Senator Trudy Wade will handle HB 347
Senator Shirley Randleman will handle HB 391
Senator Wesley Meredith will handle HB 402



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Tuesday, June 25, 2013

Senator Apodaca,

submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 834 (CS#2)

Modern State Human Resources Management/RTR.

Draft Number: H834-PCS30578-RO-33

Sequential Referral: None

Recommended Referral: None

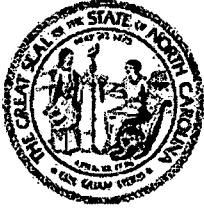
Long Title Amended: No

TOTAL REPORTED: 1

Senator Tommy Tucker will handle HB 834



* C M R 7 8 9 - V - 1 *



HOUSE BILL 834: Modern State Human Resources Management/RTR

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Reps. Collins, Burr
Analysis of: PCS to Third Edition
H834-CSRO-33

Date: June 24, 2013
Prepared by: Karen Cochrane-Brown
Committee Counsel

SUMMARY: *House Bill 834 makes organizational and administrative changes relating to the State Personnel Commission, Office of State Personnel, and State Personnel Act while directing re-naming to reflect modern human resources management; amends the law relating to exempt positions and probationary and career State employees; modifies law on reductions-in-force; revamps the employee grievance procedure; and augments Governor's authority to reorganize and restructure State government.*

The Senate Proposed Committee Substitute makes changes to the grievance process to require approval by the Office of State Personnel of final agency actions and to allow contested case appeal to the Office of Administrative Hearings (OAH). OAH must decide appeals within 180 days and a party may then seek judicial review in the Court of Appeals.

Part 1. Organization and Administrative Changes

- Section 1.1. Places the Office of State Personnel under the Office of the Governor, ending the placement within the Department of Administration, by amending G.S. 126-3(a).
- Section 1.2 Amends G.S. 126-3(a)(8) on the responsibilities of the OSP to restore authority to conduct performance management, development, and evaluation functions.
- Section 13. Modifies powers and duties of the State Personnel Commission in G.S. 126-4(5) by requiring 12 holidays each year-(with no floating day around Christmas depending on when it falls).

Part II. State Personnel Commission Changes

- Section 2. Amends G.S. 126-2(b), with the same general membership groups and 4 year terms, the composition of the SPC is as follows:
 - Two attorneys (one House, one Senate)
 - Two private industry (one House, one Senate)
 - Veteran State employee in nonexempt supervisory position [not in human resources] (Governor)
 - Regular State employee in nonexempt nonsupervisory position [not in human resources] (Governor)
 - One supervisory local government employee appointed by Governor on recommendation of county commissioners [not in human resources]
 - One nonsupervisory local government employee appointed by Governor on recommendation county commissioners [not in human resources]
 - One member of the general public (Governor)
- Section 2.2 Provides for appointments of Commission members with rotating terms.

O. Walker Reagan
Director



Research Division
(919) 733-2578

House PCS 834

Page 2

Part III. Probationary and Career State Employees

- Sections 3.1 and 3.2. Clarifies definitions and reorganizes G.S. 126-1.1. Provides for 24 months of service on probation.

Part IV. Exempt Position Modifications

- Section 4.1 Increases to 1500 from 1000 the number of exempt employee designations allowed under G.S. 126-5(d)(1). Adds the OSP, the Office of State Budget and Management, and the Office of Information Technology Services to the list of covered agencies.
- Section 4.2 Amends G.S. 147-33.77(a) to provide that ITS employees are subject to SPA if not designated as exempt under G.S. 126-5(d)(1).
- Sections 4.3 and 4.4 Repeals G.S. 126-5(e) and (f) to eliminate re-employment priority for career State employees designated as policymaking or managerial exempt.
- Section 4.6 The Part becomes effective June 30, 2013. The elimination of re-employment priority applies to employees hired on or after that date.

Part V. Reductions in Force

- Section 5.1 States that acceptance or refusal of job offered terminates the RIF priority via new subsection (f1) of G.S. 126-7.1. This provision applies to RIFs implemented on or after the effective date.

Part VI. Employee Grievances

- Section 6.1 Through several repeals and revisions in Article 8 of Chapter 126 of the General Statutes, the legislation revamps the employee grievance process as follows:
 - Grievance must go through agency grievance procedure approved by SPC. *Proposed committee substitute provides that the agency final decision shall not be issued or become final until reviewed and approved by the Office of State Personnel.*
 - Grounds for grievances streamlined and treated the same, rather than six different procedures depending on the type of grievance. Adds the failure to post and the failure to give priority reemployment as additional grounds for employee grievances.
 - Adds "terms and conditions" to types of actions that can be alleged to be discriminatory.
 - Eliminates grievances alleging that the personnel file contains inaccurate or misleading information. Agencies are required to remove misleading or inaccurate information from the file.
 - *Proposed Committee Substitute provides, once a grievance is approved by OSP, the grievant may file a contested case in the Office of Administrative Hearings. OAH must hear and decide the case within 180 days. An aggrieved party to the contested case may seek judicial review in the Court of Appeals.*
- Section 6.2 Repeals provision setting time limit for appeal of grievances.
- Section 6.3 Appeals by noncareer State employees must be filed within 30 days.
- Section 6.4 *PCS makes conforming change to allow appeals from OAH to the Court of Appeals in personnel cases.*
- Section 6.5 Part VI is effective when it becomes law and applies to grievances filed on or after that date.

Part VII. Other Modernizing and Conforming Changes

- Section 7.1 EEO provisions modernized to add disability and genetic information and to eliminate "creed."
- Section 7.2 Allows flexibility in how to obtain EEO training either offered by OR approved by OSP.

House PCS 834

Page 3

- Section 7.3 Eliminates mandatory reporting and maintains submission to OSP Director for review and approval.
- Section 7.4 Eliminates grievance alleging that the personnel file contains inaccurate or misleading information.
- Section 7.5 Reorganizes and consolidates reporting requirements in State Personnel Act and allows OSP Director to ask agencies for specific reports rather than having them automatically generated.
- Section 7.6 Eliminates separate grievance process for political affiliation or influence claims.
- Section 7.7 Eliminates reporting required to General Assembly on Work Options program.
- Section 7.8 Eliminates reporting required to General Assembly on Voluntary Shared Leave Program.
- Section 7.9 Moves annual compensation survey report to new statute.
- Section 7.10 *PCS clarifies that only whistleblowers who are not subject to the grievance provisions, may seek relief directly in the courts.*

Part VIII. Reorganization through Reduction Program

- Section 8.1 Authorizes voluntary Reorganization Through Reduction program to be created for agencies reorganizing and restructuring as one option to be used during reorganization/restructuring process. *PCS limits this program to certain departments and offices.*
- Section 8.2 *PCS provides that severance and other payments used for the program may not exceed funds appropriated for that purpose.*
- Section 8.3 *PCS sets a June 30, 2014 expiration date for the provision. OSP and OSBM must report to the Joint Legislative Commission on Governmental Operations on January 31, 2014, April 30, 2014, and September 1, 2014.*

Part VIII. Renaming/State Human Resources Commission and Office of State Human Resources

As the Part's name indicates and throughout the General Statutes, with boilerplates and instructions to the Revisor of Statutes, including renaming the State Personnel Act to the "North Carolina Human Resources Act."

EFFECTIVE DATE:

Except as otherwise provided, the legislation is effective when it becomes law.

Phyllis Pickett, counsel to House Appropriations, substantially contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 834
Committee Substitute Favorable 5/9/13
Committee Substitute #2 Favorable 5/14/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H834-CSRO-33 [v.7]

6/24/2013 6:32:57 PM

Short Title: Modern State Human Resources Management/RTR.

(Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED
AN ACT ENHANCING THE EFFECTIVENESS AND EFFICIENCY OF STATE
GOVERNMENT BY MODERNIZING THE STATE'S SYSTEM OF HUMAN
RESOURCES MANAGEMENT AND BY PROVIDING FLEXIBILITY FOR
EXECUTIVE BRANCH REORGANIZATION AND RESTRUCTURING.

The General Assembly of North Carolina enacts:

PART I. ORGANIZATIONAL AND ADMINISTRATIVE CHANGES

SECTION 1.1. G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the ~~Department of Administration~~ Office of the Governor. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws, Chapter 143A of the General Statutes, the Office of State Personnel shall exercise all of its statutory powers in this ~~Chapter independent of control by the Secretary of Administration and Chapter~~, which shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the Governor. The Director shall serve at the pleasure of the Governor."

SECTION 1.2. G.S. 126-3(b)(8) reads as rewritten:

"(8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards in agencies, departments, and institutions to which authority has been delegated for classification, salary ~~administration~~ administration, performance management, development, evaluation, and other decentralized programs, and determining through routine monitoring and periodic review process, that agencies, departments, and institutions are in compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards."

SECTION 1.3. G.S. 126-4(5) reads as rewritten:

"§ 126-4. Powers and duties of State Personnel Commission.

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:



...
(5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than ~~14~~¹² paid holidays per year ~~except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays year, with three paid holidays being given for Christmas.~~

SECTION 1.4. This Part is effective when it becomes law.

PART II. STATE PERSONNEL COMMISSION CHANGES

SECTION 2.1. G.S. 126-2 reads as rewritten:

"§ 126-2. State Personnel Commission.

(a) There is hereby established the State Personnel Commission (hereinafter referred to as "the Commission").

(b) ~~The Commission shall consist of nine members, appointed as follows:~~

(1) ~~Two members shall be attorneys licensed to practice law in North Carolina appointed by the General Assembly, one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate.~~

~~The initial two attorney members appointed under this subdivision shall serve terms expiring June 30, 2004; the terms of subsequent appointees shall be six years.~~

(2) ~~Two persons from private business or industry appointed by the Governor, both of whom shall have a working knowledge of, or practical experience in, human resources management. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be six years.~~

(3) ~~Two State employees subject to the State Personnel Act serving in nonexempt positions, appointed by the Governor, including one of whom is a veteran of the Armed Forces of the United States appointed upon the nomination of the Veterans' Affairs Commission. One employee shall serve in a State government position having supervisory duties, and one employee shall serve in a nonsupervisory position. Neither employee may be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina. The initial members appointed under this subdivision shall serve terms expiring June 30, 2001; the terms of subsequent appointees shall be six years.~~

(4) ~~Two local government employees subject to the State Personnel Act appointed by the Governor upon recommendation of the North Carolina Association of County Commissioners, one a nonsupervisory local employee and one a supervisory local employee. Neither local government employee may be a human resources professional. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be for six years.~~

(5) ~~One member of the public at large appointed by the Governor. The initial member appointed under this subdivision shall serve for a term expiring June 30, 2001; the terms of subsequent appointees shall be for six years.~~

(b1) The Commission shall consist of nine members, appointed as follows:

- (1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be an attorney licensed to practice law in North Carolina.
- (2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be an attorney licensed to practice law in North Carolina.
- (3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.
- (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.
- (5) One member who is a veteran of the Armed Forces of the United States appointed by the Governor upon the nomination of the Veterans Affairs Commission and who is a State employee subject to this Chapter serving in a nonexempt supervisory position. The member may not be a human resources professional.
- (6) One member appointed by the Governor who is a State employee subject to this Chapter serving in a nonexempt nonsupervisory position. The member may not be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina.
- (7) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a supervisory position. The member may not be a human resources professional.
- (8) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a nonsupervisory position. The member may not be a human resources professional.
- (9) One member of the public at large appointed by the Governor.

(c) Each member of the Commission shall be appointed for a term of four years. Members of the Commission may serve no more than two consecutive terms. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.

(d) No member of the Commission may serve on a case where there would be a conflict of interest. The appointing authority may at any time remove any Commission member for cause.

(e) Members of the Commission who are State or local government employees subject to the State Personnel Act ~~at this Chapter~~ shall be entitled to administrative leave without loss of pay for all periods of time required to conduct the business of the Commission.

(f) ~~Six~~ Five members of the Commission shall constitute a quorum.

(g) The Governor shall designate one member of the Commission as chair.

(h) The Commission shall meet quarterly, and at other times at the call of the chair."

SECTION 2.2. The terms of the two attorney members appointed under G.S. 126-2(b)(1), serving on the Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the persons from private business or industry appointed under

G.S. 126-2(b)(2), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the two local government employees appointed under G.S. 126-2(b)(4), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The term of the public at-large member appointed under G.S. 126-2(b)(5), serving on the Commission on January 1, 2013, shall expire June 30, 2013. If the terms of office eliminated in this act have not been set out, then the appointing authorities shall determine by July 1, 2013, which terms to eliminate to achieve the membership totals pursuant to this act. After determining which terms to eliminate, the appointing authority shall notify in writing all the persons and entities required to receive notification pursuant to G.S. 143-47.7.

SECTION 2.3. This Part is effective when it becomes law.

PART III. PROBATIONARY AND CAREER STATE EMPLOYEES

SECTION 3.1. G.S. 126-1.1 reads as rewritten:

"§ 126-1.1. Career State employee defined.

(a) For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

- (1) Is in a permanent ~~position appointment~~; position, and
- (2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the State Personnel Act for the immediate 24 preceding months.

(b) As used in this Chapter, "probationary State employee" means a State employee who is in a probationary appointment and is exempt from the provisions of the State Personnel Act only because the employee has not been continuously employed by the State for the time period required by subsection (a) of this section.

SECTION 3.2. G.S. 126-15.1 is repealed.

SECTION 3.3. This Part is effective when it becomes law.

PART IV. EXEMPT POSITION MODIFICATIONS

SECTION 4.1. G.S. 126-5(d)(1) reads as rewritten:

"(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of ~~1,000~~ 1,500 exempt positions throughout the following ~~departments; departments and offices:~~

- a. Department of Administration.
- b. Department of Commerce.
- c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- d. Department of Public Safety.
- e. Department of Cultural Resources.
- f. Department of Health and Human Services.
- g. Department of Environment and Natural Resources.
- h. Department of Revenue.
- i. Department of Transportation.
- j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
- k. Office of Information Technology Services.

1 l. Office of State Budget and Management.

2 m. Office of State Personnel.

3 ~~Notwithstanding the provisions of this subdivision or the other requirements of this~~
4 ~~subsection, the Governor may at any time designate up to one percent (1%) of the total number~~
5 ~~of full-time positions in the Department of Public Safety, not to exceed 100 positions, as~~
6 ~~exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other~~
7 ~~requirements of this subsection, the Governor may at any time increase by five the number of~~
8 ~~exempt policy-making positions at the Department of Public Safety, but at no time shall the~~
9 ~~total number of exempt policy-making positions exceed 105."~~

10 **SECTION 4.2.** G.S. 147-33.77(a) reads as rewritten:

11 "(a) The State Chief Information Officer may appoint a Chief Deputy Information
12 Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief
13 Information Officer. The State Chief Information Officer may appoint all employees, including
14 legal counsel, necessary to carry out the powers and duties of the office. These employees shall
15 be subject to the State Personnel ~~Act~~Act, except that employees in positions designated as
16 exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of
17 that section."

18 **SECTION 4.3.** G.S. 126-5(e) is repealed.

19 **SECTION 4.4.** G.S. 126-5(f) is repealed.

20 **SECTION 4.5.** G.S. 126-5(d)(5) reads as rewritten:

21 "(d) ...

22 (5) Creation, Transfer, or Reorganization. – The Governor, elected department
23 head, or State Board of Education may designate as exempt a position that is
24 created or transferred to a different department, or is located in a department
25 in which reorganization has occurred, after ~~July 1~~October 1 of the year in
26 which the oath of office is administered to the Governor. The designation
27 must be made in a letter to the State Personnel Director, the Speaker of the
28 North Carolina House of Representatives, and the President of the North
29 Carolina Senate within 180 days after such position is created, transferred, or
30 in which reorganization has occurred."

31 **SECTION 4.6.** This Part becomes effective June 30, 2013, with the repeal of the
32 provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after
33 that date.

34
35 **PART V. REDUCTIONS IN FORCE**

36 **SECTION 5.1.** G.S. 126-7.1 reads as rewritten;

37 "**§ 126-7.1. Posting requirement; State employees receive priority consideration;**
38 **reduction-in-force; Work First hiring.**

39 ...

40 (e) If a State employee subject to this section:

41 (1) Applies for another position of State employment that would constitute a
42 promotion; and

43 (2) Has substantially equal qualifications as an applicant who is not a State
44 ~~employee-employee;~~

45 then the State employee shall receive priority consideration over the applicant who is not a
46 State employee. This priority consideration shall not apply when the only applicants considered
47 for the vacancy are current State employees.

48 (f) If a State employee who has been separated due to reduction in force or who has
49 been given notice of imminent separation due to reduction in force:

(1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and

(2) Has substantially equal qualifications as any other applicant; then within all State agencies, the State employee who has been notified of or separated due to a reduction in force shall receive priority consideration over all other applicants. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal.

(f1) If a State employee who has been separated due to reduction-in-force or who has been given notice of imminent separation due to reduction-in-force accepts or rejects an offer for a position of State employment that is equal to or higher than the position held or equal to or higher than the salary earned by the employee at the time of separation or notification, then the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section.

...."

SECTION 5.2. This Part is effective when it becomes law and applies to reductions-in-force implemented on or after that date.

PART VI. EMPLOYEE GRIEVANCES

SECTION 6.1. Article 8 of Chapter 126 of the General Statutes reads as rewritten:

"Article 8.

"Employee Appeals of Grievances and Disciplinary Action.

"§ 126-34.01 Grievance; resolution.

Any State employee having a grievance arising out of or due to the employee's employment shall first discuss the problem or grievance with the employee's supervisor, unless the problem or grievance is with the supervisor. Then the employee shall follow the grievance procedure approved by the State Personnel Commission. The proposed agency final decision shall not be issued nor become final until reviewed and approved by the Office of State Personnel. The agency grievance procedure and Office of State Personnel review shall be completed within 90 days from the date the grievance is filed.

"§ 126-34.02 Grievance appeal process; grounds.

(a) Once a final agency decision has been issued in accordance with G.S. 126-34.01, an applicant for State employment, a State employee, or former State employee may file a contested case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the General Statutes. The contested case must be filed within 30 days of receipt of the final agency decision. Except for cases of extraordinary cause shown, the Office of Administrative Hearings shall hear and issue a final decision in accordance with G.S. 150B-34 within 180 days from the commencement of the case. In deciding cases under this section, the Office of Administrative Hearings may grant the following relief:

- (1) Reinstate any employee to the position from which the employee has been removed.
- (2) Order the employment, promotion, transfer, or salary adjustment of any individual to whom it has been wrongfully denied.
- (3) Direct other suitable action to correct the abuse which may include the requirement of payment for any loss of salary which has resulted from the improper action of the appointing authority.

An aggrieved party in a contested case under this section shall be entitled to judicial review of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The

1 procedure for the appeal shall be as provided by the rules of appellate procedure. The appeal
2 shall be taken within 30 days of receipt of the written notice of final decision. A notice of
3 appeal shall be filed with the Office of Administrative Hearings and served on all parties to the
4 contested case hearing.

5 (b) The following issues may be heard as contested cases after completion of the
6 agency grievance procedure and the Office of State Personnel review:

7 (1) Discrimination or harassment. – An applicant for State employment, a State
8 employee, or former State employee may allege discrimination or
9 harassment based on race, religion, color, national origin, sex, age,
10 disability, genetic information, or political affiliation if the employee
11 believes that he or she has been discriminated against in his or her
12 application for employment or in the terms and conditions of the employee's
13 employment, or in the termination of his or her employment.

14 (2) Retaliation. – An applicant for State employment, a State employee, or
15 former State employee may allege retaliation for protesting discrimination
16 based on race, religion, color, national origin, sex, age, disability, political
17 affiliation, or genetic information if the employee believes that he or she has
18 been retaliated against in his or her application for employment or in the
19 terms and conditions of the employee's employment, or in the termination of
20 the employee's employment.

21 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
22 may allege that he or she was dismissed, demoted, or suspended for
23 disciplinary reasons without just cause. A dismissal, demotion, or suspension
24 which is not imposed for disciplinary reasons shall not be considered a
25 disciplinary action within the meaning of this section. However, in contested
26 cases conducted pursuant to this section, an employee may appeal an
27 involuntary non-disciplinary separation due to an employee's unavailability
28 in the same fashion as if it were a disciplinary action, but the agency shall
29 only have the burden to prove that the employee was unavailable. In cases of
30 such disciplinary action the employee shall, before the action is taken, be
31 furnished with a statement in writing setting forth the specific acts or
32 omissions that are the reasons for the disciplinary action and the employee's
33 appeal rights. The employee shall be permitted 15 days from the date the
34 statement is delivered to appeal under the agency grievance procedure.
35 However, an employee may be suspended without warning pending the
36 giving of written reasons in order to avoid undue disruption of work, to
37 protect the safety of persons or property, or for other serious reasons.

38 (4) Veteran's preference. – An applicant for State employment or State
39 employee may allege that he or she was denied veteran's preference in
40 violation of the law.

41 (5) Failure to post or give priority consideration. – An applicant for State
42 employment or a State employee may allege that he or she was denied hiring
43 or promotion because a position was not posted in accordance with this
44 Chapter or because he or she was denied hiring or promotion as a result of a
45 failure to give priority consideration for promotion or reemployment as
46 required by G.S. 126-7.1.

47 (6) Whistleblower. – A whistleblower grievance as provided for in this Chapter.

48 (c) Any issue for which an appeal to the Office of Administrative Hearings has not been
49 specifically authorized by this section shall not be grounds for a contested case hearing.

1 (d) In contested cases conducted pursuant to this section, the burden of showing that a
2 career State employee was discharged, demoted, or suspended for just cause rests with the
3 employer. In all other contested cases, the burden of proof rests on the employee.

4 (e) The Office of Administrative Hearings may award attorneys' fees to an employee
5 where reinstatement or back pay is ordered or where an employee prevails in a whistleblower
6 grievance. The remedies provided in this subsection in a whistleblower appeal shall be the
7 same as those provided in G.S. 126-87.

8 (f) The Office of Administrative Hearings shall report to the Office of State Personnel
9 and the Joint Legislative Administrative Procedure Oversight Committee on the number of
10 cases filed under this section and on the number of days between filing and closing of each
11 case. The report shall be filed on a semi-annual basis.

12 **"§ 126-34. Grievance appeal for career State employees.**

13 ~~Unless otherwise provided in this Chapter, any career State employee having a grievance~~
14 ~~arising out of or due to the employee's employment and who does not allege unlawful~~
15 ~~harassment or discrimination because of the employee's age, sex, race, color, national origin,~~
16 ~~religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall~~
17 ~~first discuss the problem or grievance with the employee's supervisor and follow the grievance~~
18 ~~procedure established by the employee's department or agency. Any State employee having a~~
19 ~~grievance arising out of or due to the employee's employment who alleges unlawful harassment~~
20 ~~because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping~~
21 ~~condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's~~
22 ~~department or agency. The department or agency shall have 60 days within which to take~~
23 ~~appropriate remedial action. If the employee is not satisfied with the department or agency's~~
24 ~~response to the complaint, the employee shall have the right to appeal directly to the Office of~~
25 ~~Administrative Hearings.~~

26 **"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.**

27 (a) ~~A State employee or former State employee may file in the Office of Administrative~~
28 ~~Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to~~
29 ~~the following personnel actions or issues:~~

- 30 (1) ~~Dismissal, demotion, or suspension without pay based upon an alleged~~
31 ~~violation of G.S. 126-35, if the employee is a career State employee.~~
- 32 (2) ~~An alleged unlawful State employment practice constituting discrimination,~~
33 ~~as proscribed by G.S. 126-36, including:~~
 - 34 a. ~~Denial of promotion, transfer, or training, on account of the~~
35 ~~employee's age, sex, race, color, national origin, religion, creed,~~
36 ~~political affiliation, or handicapping condition as defined by Chapter~~
37 ~~168A of the General Statutes.~~
 - 38 b. ~~Demotion, reduction in force, or termination of an employee in~~
39 ~~retaliation for the employee's opposition to alleged discrimination on~~
40 ~~account of the employee's age, sex, race, color, national origin,~~
41 ~~religion, creed, political affiliation, or handicapping condition as~~
42 ~~defined by Chapter 168A of the General Statutes.~~
- 43 (3) ~~Retaliation against an employee, as proscribed by G.S. 126-17, for protesting~~
44 ~~an alleged violation of G.S. 126-16.~~
- 45 (4) ~~Denial of the veteran's preference granted in accordance with Article 13 of~~
46 ~~this Chapter in initial State employment or in connection with a reduction in~~
47 ~~force, for an eligible veteran as defined by G.S. 126-81.~~
- 48 (5) ~~Denial of promotion for failure to post or failure to give priority~~
49 ~~consideration for promotion or reemployment, to a career State employee as~~
50 ~~required by G.S. 126-7.1 and G.S. 126-36.2.~~

- ~~(6) Denial of an employee's request for removal of allegedly inaccurate or misleading information from the employee's personnel file as provided by G.S. 126-25.~~
- ~~(7) Any retaliatory personnel action that violates G.S. 126-85.~~
- ~~(8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.~~
- ~~(9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~
- ~~(10) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.~~
- ~~(11) Violation of any of the following federal statutes as applied to the employee:~~
- ~~a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.~~
 - ~~b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.~~
 - ~~c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.~~
 - ~~d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.~~
- ~~(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:~~
- ~~(1) Alleged denial of employment in violation of G.S. 126-16.~~
 - ~~(2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.~~
 - ~~(3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(e)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(e)(2).~~
 - ~~(4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.~~
 - ~~(5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~
- ~~(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.~~
- ~~(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.~~
- ~~(e) Any issue for which appeal to the Office of Administrative Hearings through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been~~

specifically authorized by this section shall not be grounds for a contested case under Chapter 126.

"§ 126-34.2. Alternative dispute resolution.

In its discretion, the Commission may adopt alternative dispute resolution procedures for the resolution of matters constituting and not constituting grounds for a grievance under this Article. Any matters not constituting grounds for an appeal under G.S. 126-34.02 shall not be heard by the Office of Administrative Hearings as a contested case.

~~(a) Notwithstanding the provisions of Articles 6 and 7 of this Chapter, or the other provisions of this Article, with the consent of the parties, a matter for which a State employee, a former State employee, or an applicant for State employment has filed a contested case under Article 3 of Chapter 150B of the General Statutes may be handled in accordance with alternative dispute resolution procedures adopted by the State Personnel Commission.~~

~~(b) In its discretion, the State Personnel Commission may adopt alternative dispute resolution procedures for the resolution of matters not constituting grounds for a contested case under G.S. 126-34.1.~~

~~(c) Nothing in this section shall be construed to limit the right of any person to file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.~~

"§ 126-34.3. Judicial review of fee awards.

With respect to a decision of the Office of Administrative Hearings assessing or refusing to assess reasonable witness fees or a reasonable attorneys' fee, the decision shall be subject to judicial review in accordance with G.S. 126-34.02(a). The reviewing court may reverse or modify the decision of the Office of Administrative Hearings if the decision is unreasonable or the award is inadequate. An employee who obtains a reversal or modification of the Office of Administrative Hearings' decision in an appeal under this section shall be entitled to recover court costs and a reasonable attorneys' fee for representation in connection with the appeal.

"§ 126-35. Just cause; disciplinary actions for State employees.

(a) No career State employee subject to the State Personnel Act shall be discharged, suspended, or demoted for disciplinary reasons, except for just cause. In cases of such disciplinary action, the employee shall, before the action is taken, be furnished with a statement in writing setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal to the head of the ~~department~~ agency through the agency grievance procedure for a final agency decision. However, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. ~~The employee, if he is not satisfied with the final decision of the head of the department, or if he is unable, within a reasonable period of time, to obtain a final decision by the head of the department, If the employee is not satisfied with the final agency decision or is unable, within a reasonable period of time to obtain a final agency decision, the employee may appeal to the Office of Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt of notice of the department head's final agency decision. The State Personnel Commission may adopt, subject to the approval of the Governor, rules that define just cause.~~

~~(b) Notwithstanding any other provision of this Chapter, a reduction in pay or position which is not imposed for disciplinary reasons shall not be considered a disciplinary action within the meaning of this Article. Disciplinary actions, for the purpose of this Article, are those actions taken in accordance with the disciplinary procedures adopted by the State Personnel Commission and specifically based on unsatisfactory job performance, unacceptable personal conduct or a combination of the two.~~

1 (e) For the purposes of contested case hearings under Chapter 150B, an involuntary
2 separation (such as a separation due to a reduction in force) shall be treated in the same fashion
3 as if it were a disciplinary action.

4 (d) In contested cases conducted pursuant to Chapter 150B of the General Statutes, the
5 burden of showing that a career State employee subject to the State Personnel Act was
6 discharged, suspended, or demoted for just cause rests with the department or agency
7 employer."

8 **~~"§ 126-36. Appeal of unlawful State employment practice.~~**

9 (a) Any State employee or former State employee who has reason to believe that
10 employment, promotion, training, or transfer was denied the employee or that demotion, layoff,
11 transfer, or termination of employment was forced upon the employee in retaliation for
12 opposition to alleged discrimination or because of the employee's age, sex, race, color, national
13 origin, religion, creed, political affiliation, or handicapping condition as defined by
14 G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide
15 occupational qualification necessary to proper and efficient administration, shall have the right
16 to appeal directly to the Office of Administrative Hearings.

17 (b) Subject to the requirements of G.S. 126-34, any State employee or former State
18 employee who has reason to believe that the employee has been subjected to any of the
19 following shall have the right to appeal directly to the Office of Administrative Hearings:

20 (1) Harassment in the workplace based upon age, sex, race, color, national
21 origin, religion, creed, or handicapping condition, whether the harassment is
22 based upon the creation of a hostile work environment or upon a quid pro
23 quo.

24 (2) Retaliation for opposition to harassment in the workplace based upon age,
25 sex, race, color, national origin, religion, creed, or handicapping condition,
26 whether the harassment is based upon the creation of a hostile work
27 environment or upon a quid pro quo."

28 **~~"§ 126-36.1. Appeal to Office of Administrative Hearings by applicant for employment.~~**

29 Any applicant for State employment who has reason to believe that employment was denied
30 in violation of G.S. 126-16 shall have the right to appeal directly to the Office of
31 Administrative Hearings."

32 **~~"§ 126-36.2. Appeal to Office of Administrative Hearings by career State employee
33 denied notice of vacancy or priority consideration.~~**

34 Any career State employee who has reason to believe that he was denied promotion due to
35 the failure of the agency, department, or institution that had a job vacancy to:

36 (1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;

37 (2) Give him priority consideration pursuant to G.S. 126-7.1(e) may appeal
38 directly to the Office of Administrative Hearings.

39 **~~"§ 126-37. Administrative Law Judge's final decision.~~**

40 (a) Appeals involving a disciplinary action, alleged discrimination or harassment, and
41 any other contested case arising under this Chapter shall be conducted in the Office of
42 Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance
43 may be appealed unless the employee has complied with G.S. 126-34. The administrative law
44 judge is hereby authorized to reinstate any employee to the position from which the employee
45 has been removed, to order the employment, promotion, transfer, or salary adjustment of any
46 individual to whom it has been wrongfully denied or to direct other suitable action to correct
47 the abuse which may include the requirement of payment for any loss of salary which has
48 resulted from the improperly discriminatory action of the appointing authority.

49 (b) Repealed by 1993 (Reg. Sess., 1994), c. 572, s. 1.

50 (b1) Repealed by Session Laws 2011-398, s. 44, effective January 1, 2012, and
51 applicable to contested cases commenced on or after that date.

(b2) The final decision is subject to judicial review pursuant to Article 4 of Chapter 150B of the General Statutes. Appeals in which it is found that discrimination prohibited by Article 6 of this Chapter has occurred or in any case where a binding decision is required by applicable federal standards shall be heard as all other appeals.

(c) If the local appointing authority is other than a board of county commissioners, the local appointing authority must give the county notice of the appeal taken pursuant to subsection (a) of this section. Notice must be given to the county manager or the chairman of the board of county commissioners by certified mail within 15 days of the receipt of the notice of appeal. The county may intervene in the appeal within 30 days of receipt of the notice. If the action is appealed to superior court the county may intervene in the superior court proceeding even if it has not intervened in the administrative proceeding. The decision of the superior court shall be binding on the county even if the county does not intervene.

"§ 126-38. Time limit for appeals.

Any employee appealing any decision or action shall file a petition for a contested case with the Office of Administrative Hearings as provided in G.S. 150B-23(a) no later than 30 days after receipt of notice of the decision or action which triggers the right of appeal.

"§ 126-39. Scope of this Article.

Except for positions subject to competitive service and except for appeals brought under G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career State employees at the time of the act, grievance, or employment practice complained of.

"§ 126-40: Repealed by Session Laws 1985, c. 746, s. 16.

"§ 126-41. Attorney and witness fees.

The decision of the Commission assessing or refusing to assess reasonable witness fees or a reasonable attorney's fee as provided in G.S. 126-4(11) is a final agency decision appealable under Article 4 of Chapter 150B of the General Statutes. The reviewing court may reverse or modify the decision of the Commission if the decision is unreasonable or the award is inadequate. The reviewing court shall award court costs and a reasonable attorney's fee for representation in connection with the appeal to an employee who obtains a reversal or modification of the Commission's decision in an appeal under this section.

"§ 126-42. Reserved for future codification purposes."

SECTION 6.2. G.S. 126-7.2 is repealed.

SECTION 6.3 G.S. 126-14.1(c) reads as rewritten:

"(c) A State employee subject to the Personnel Act, probationary State employee, or temporary State employee, who without probable cause falsely accuses a person of violating this section shall be subject to discipline or change in employment status in accordance with the provisions of G.S. 126-35, 126-37, and 126-38 G.S. 126-34.02 and may, as otherwise provided by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or malicious prosecution.

SECTION 6.4 G.S. 7A-29(a) reads as rewritten:

"(a) From any final order or decision of the North Carolina Utilities Commission not governed by subsection (b) of this section, the Department of Health and Human Services under G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the Commissioner of Insurance under G.S. 58-2-80, the State Board of Elections under G.S. 163-127.6, the Office of Administrative Hearings under G.S. 126-34.02, or the Secretary of Environment and Natural Resources under G.S. 104E-6.2 or G.S. 130A-293, appeal as of right lies directly to the Court of Appeals.

SECTION 6.5. This Part is effective when it becomes law and applies to grievances filed on or after that date.

PART VII. OTHER MODERNIZING AND CONFORMING CHANGES

1 SECTION 7.1. G.S. 126-16 reads as rewritten:

2 "§ 126-16. Equal opportunity for employment and compensation by State departments
3 and agencies and local political subdivisions.

4 All State departments and agencies, agencies, departments, and institutions and all local
5 political subdivisions of North Carolina shall give equal opportunity for employment and
6 compensation, without regard to race, religion, color, ~~creed~~, national origin, sex, age, disability,
7 or genetic information to all persons otherwise qualified, ~~or handicapping condition as defined~~
8 ~~in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical~~
9 ~~requirements constitute bona fide occupational qualifications necessary to proper and efficient~~
10 ~~administration. This section with respect to equal opportunity as to age shall be limited to~~
11 ~~individuals who are at least 40 years of age."~~

12 SECTION 7.2. G.S. 126-16.1 reads as rewritten:

13 "§ 126-16.1. Equal employment opportunity training.

14 Each State agency, department, and institution, and The University of North Carolina, shall
15 enroll each newly appointed supervisor or manager within one year of appointment in the Equal
16 Employment Opportunity training offered or approved by the Office of State Personnel.

17 ~~Each State agency, each State department, and The University of North Carolina shall:~~

18 (1) ~~Enroll each newly appointed supervisor or manager within one year of~~
19 ~~appointment in the Equal Employment Opportunity Institute operated by the~~
20 ~~Division of Equal Opportunity Services of the Office of State Personnel.~~
21 ~~Current managers and supervisors are encouraged to enroll/participate in the~~
22 ~~Institute.~~

23 (2) ~~Be responsible for providing supplies and resource materials for managers~~
24 ~~and supervisors who are enrolled from that department, agency or~~
25 ~~university."~~

26 SECTION 7.3. G.S. 126-19 reads as rewritten:

27 "§ 126-19. Equal employment opportunity plans; reports; maintenance of services by
28 State Personnel Director.

29 (a) Each member of the Council of State under G.S. 143A-11, each of the principal
30 departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch,
31 and the legislative branch, shall develop and submit on an annual basis an Equal Employment
32 Opportunity plan which shall include goals and programs that provide positive measures to
33 assure equitable and fair representation of North Carolina's citizens. The plans developed by the
34 judicial branch and by the Legislative Services Office on behalf of the legislative branch shall
35 be submitted to the General Assembly on or before June 1 of each year. All other such plans
36 shall be submitted to the State Personnel Director for review and approval on or before March
37 1, of each year.

38 (b) ~~The State Personnel Commission shall submit a report to the General Assembly~~
39 ~~concerning the status of Equal Employment Opportunity plans and programs for all State~~
40 ~~departments, agencies, universities, which are required by this Chapter to report to the State~~
41 ~~Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the~~
42 ~~report shall contain reasons for disapproval. The status report submitted to the General~~
43 ~~Assembly by the State Personnel Director and the plans submitted to the General Assembly by~~
44 ~~the judicial branch and the Legislative Services Office on behalf of the legislative branch shall~~
45 ~~contain the total number of persons employed in each job category, the race, sex, salary, and~~
46 ~~other demographics relative to persons hired and promoted during the reporting period, analysis~~
47 ~~of the data, and an indication as to which goals were achieved.~~

48 (c) The State Personnel Director ~~shall at least maintain current~~ will provide services of
49 Equal Employment Opportunity technical assistance, training, oversight, monitoring,
50 evaluation, support programs, and reporting to assure that State government's work force is
51 diverse at all occupational levels. These services shall be provided by qualified personnel at all

occupational levels reflect North Carolina's population. To the extent reasonably possible, these services shall be provided by qualified personnel who have continuous experience in the field of Equal Employment Opportunity and affirmative action and who are sensitive to circumstances and experiences of individuals from diverse backgrounds and cultures, and recognize that efficient and effective government requires the talents, skills, and abilities of all available human resources."

SECTION 7.4. G.S. 126-25 reads as rewritten:

"§ 126-25. Remedies of employee objecting to material in file.

(a) An employee, former ~~employee-employee~~, or applicant for employment who objects to material in ~~his-the employee's~~ file may place in his or her file a written statement relating to the material ~~he-the employee~~ considers to be inaccurate or misleading.

(b) An employee, former ~~employee-employee~~, or applicant for employment who objects to material in ~~his-the employee's~~ file because he or she considers it inaccurate or misleading may seek the removal of such material from ~~his-the~~ file in accordance with a grievance procedure established by that department. If the agency determines that material in the employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate material to ensure that the file is accurate. Nothing in this subsection shall be construed to permit an employee to appeal the contents of a performance appraisal or written disciplinary action, the grievance procedure of that department, including appeal to the State Personnel Commission. When a department, division, bureau, commission, or other agency agrees or is ordered by the State Personnel Commission or by the General Court of Justice of this State to remove inaccurate or misleading material from an employee's file, which information was placed in the file by the supervisor or other agent of management, it shall destroy the original and all copies of the material removed and may not retain any inaccurate or misleading information derived from the material removed."

SECTION 7.5. G.S. 126-6.2 reads as rewritten:

"§ 126-6.2. Reports.

(a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency, department, or institution employing State employees subject to the State Personnel Act shall report to the Office of State Personnel on the following:

(1) The costs associated with the defense or settlement of administrative grievances and lawsuits filed by current or former State employees and applicants for State employment, including the costs of settlements, attorneys' fees, litigation expenses, damages, or awards incurred by the respective State agencies, departments, and institutions. The report shall include an explanation of the fiscal impact of these costs upon the operations of the State agency, department, or institution.

(2) Any other human resources functions or actions as may be requested by the Director of the Office of State Personnel in order for the Office to evaluate the efficiency, productivity, and compliance of a State agency, department, or institution with policies including, but not limited to, the compensation of State employees, voluntary shared-leave programs, equal employment opportunity plans and programs, and work options programs. The modification of position descriptions resulting in changes in position qualifications to allow the use of educational, experience, or other equivalencies in the hiring or promotion of State employees where such equivalencies were not previously used in the position descriptions. The report shall include an explanation of the reasons for the changes in the position descriptions and the bases for the use of the equivalencies.

(b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission shall report to the Joint Legislative Commission on Governmental Operations on the costs

1 associated with the defense or settlement of lawsuits and on the use of position qualification
2 equivalencies, as compiled in accordance with lawsuits, and upon request, on the results of any
3 other reports regarding human resources action or functions pursuant to subsection (a) of this
4 section.

5 ~~(e) Beginning May 1, 1998, and then annually thereafter, the State Personnel~~
6 ~~Commission, through the Office of State Personnel, shall report to the Joint Legislative~~
7 ~~Commission on Governmental Operations on outcomes with respect to State employee hirings,~~
8 ~~promotions, disciplinary actions, and compensation, based upon demographics."~~

9 SECTION 7.6. G.S. 126-14.4 is repealed.

10 SECTION 7.7. G.S. 126-79 is repealed.

11 SECTION 7.8. G.S. 126-8.3(c) reads as rewritten:

12 "(c) The State Personnel Commission, the State Board of Education, and the State Board
13 of Community Colleges ~~Colleges, and all State agencies, departments, and institutions shall~~
14 ~~annually report to the Office of State Personnel on the voluntary shared leave program. For the~~
15 ~~prior fiscal year, the report shall include the total number of days or hours of vacation leave and~~
16 ~~sick leave donated and used by voluntary shared leave recipients and the total cost of the~~
17 ~~vacation leave and sick leave donated and used. The State Personnel Commission, the State~~
18 ~~Board of Education, and the State Board of Community Colleges shall provide a report for each~~
19 ~~fiscal year as required by this section to the Joint Legislative Commission on Governmental~~
20 ~~Operations and to the Fiscal Research Division on or before October 15 each year."~~

21 SECTION 7.9.(a) G.S. 126-7(b) is repealed.

22 SECTION 7.9.(b) Article 2 of Chapter 126 of the General Statutes is amended by
23 adding a new section to read:

24 "**§ 126-7.3. Annual compensation surveys.**

25 To guide the Governor and the General Assembly in making decisions regarding the
26 compensation of State employees, the Office of State Personnel shall conduct annual
27 compensation surveys. The Commission shall present the results of the compensation survey to
28 the Appropriations Committees of the House of Representatives and the Senate no later than
29 two weeks after the convening of the legislature in odd-numbered years and May 1st of
30 even-numbered years."

31 SECTION 10. G.S. 126-86 reads as rewritten:

32 "**§ 126-86. Civil actions for injunctive relief or other remedies.**

33 Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of
34 this Chapter may maintain an action in superior court for damages, an injunction, or other
35 remedies provided in this Article against the person or agency who committed the violation
36 within one year after the occurrence of the alleged violation of this Article; provided, however,
37 any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained
38 pursuant to the provisions of that Article only and may be redressed only by the remedies and
39 relief available under that Article."

40 SECTION 7.11. This Part is effective when it becomes law.

42 PART VIII. REORGANIZATION THROUGH REDUCTION PROGRAM

43 SECTION 8.1 The Office of State Personnel, in conjunction with the Office of
44 State Budget and Management (OSBM), may develop the Reorganization Through Reduction
45 Program (RTR). The RTR shall be one option available for reorganization and restructuring of
46 the departments and offices listed in G.S. 126-5(d)(1), as amended by Section 4.1 of this act.
47 The RTR is authorized to serve as an employee volunteer separation program to accomplish
48 reorganization and restructuring needs in the specified departments and offices through policies
49 approved by the State Personnel Commission (SPC). The SPC policy shall detail the following:

50 (1) The approach to be used in identifying the organizational units.

51 (2) The process for identifying employees who may volunteer.

(3) The availability of severance and other related assistance.

SECTION 8.2. Severance and any other payments made pursuant to the implementation of the RTR program will not exceed funds appropriated for that purpose.

SECTION 8.3. This Part is effective when it becomes law and expires June 30, 2014. The Office of State Personnel and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on January 31, 2014, April 30, 2014, and September 1, 2014.

PART IX. RENAMING/STATE HUMAN RESOURCES COMMISSION AND OFFICE OF STATE HUMAN RESOURCES

SECTION 9.1.(a) Chapter 126 of the General Statutes, the State Personnel Act, is hereby renamed and may be cited as the "North Carolina Human Resources Act."

SECTION 9.1.(b) The following entities and positions created by Chapter 126 of the General Statutes are hereby renamed by this act:

(1) The State Personnel Commission is renamed the "North Carolina Human Resources Commission."

(2) The Office of State Personnel is renamed the "North Carolina Office of State Human Resources."

(3) The State Personnel Director is renamed the "Director of the North Carolina Office of State Human Resources."

SECTION 9.1.(c) Modification of References. – The Revisor of Statutes shall delete any references in the General Statutes to the State Personnel Act, State Personnel Commission, the State Personnel Director, and the Office of State Personnel (or any derivatives thereof) and substitute references to the North Carolina Human Resources Act, the State Human Resources Commission, the Director of the Office of State Human Resources, and the Office of Human Resources (or the appropriate derivative thereof) to effectuate the renaming set forth in this section wherever conforming changes are necessary. The affected statutes may include, but are not limited to, the statutes tabulated below:

– Referring to the State Personnel Act:

- | | |
|-------------------|---|
| 1. G.S. 7A-171 | Duty hours, salary, and travel expenses within county. |
| 2. G.S. 7A-751 | Agency head; powers and duties; salaries of Chief Administrative Law Judge and other administrative law judges. |
| 3. G.S. 7A-760 | Number and status of employees; staff assignments; role of State Personnel Commission. |
| 4. G.S. 18C-120 | Selection of the Director; powers and duties. |
| 5. G.S. 18C-173 | Limits on compensation increases. |
| 6. G.S. 58-2-10 | Salary of Commissioner. |
| 7. G.S. 58-71-5 | Commissioner of Insurance to administer Article; rules and regulations; employees; evidence of Commissioner's actions. |
| 8. G.S. 58-86-15 | Director. |
| 9. G.S. 62-12 | Organization of Commission; adoption of rules and regulations therefor. |
| 10. G.S. 88B-6 | Board office, employees, funds, budget requirements. |
| 11. G.S. 90-270.4 | Exemptions to this Article. |
| 12. G.S. 95-2 | Election of Commissioner; term; salary; vacancy. |
| 13. G.S. 97-78 | Salaries and expenses; administrator, executive secretary, deputy commissioners, and other staff assistance; annual report. |
| 14. G.S. 106-11 | Salary of Commissioner of Agriculture. |

1	15. G.S. 113A-258	Clean Water Management Trust Fund: Executive
2		Director and staff.
3	16. G.S. 114-7	Salary of the Attorney General.
4	17. G.S. 115C-20	Office and salary.
5	18. G.S. 115D-5	Administration of institutions by State Board of
6		Community Colleges; personnel exempt from State
7		Personnel Act; extension courses; tuition waiver; in-plant
8		training; contracting, etc., for establishment and
9		operation of extension units of the community college
10		system; use of existing public school facilities.
11	19. G.S. 116-11	Powers and duties generally.
12	20. G.S. 116-30.4	Position management.
13	21. G.S. 120-36.1	Fiscal Research Division of Legislative Services
14		Commission established.
15	22. G.S. 120-79	Commission staffing.
16	23. G.S. 122A-4	North Carolina Housing Finance Agency.
17	24. G.S. 122D-5	Officers and employees; administration of Chapter.
18	25. G.S. 122E-4	North Carolina Housing Partnership created;
19		compensation; organization.
20	26. G.S. 126-1.1	Career State employee defined.
21	27. G.S. 126-2	State Personnel Commission.
22	28. G.S. 126-5	Employees subject to Chapter; exemptions.
23	29. G.S. 126-6.2	Reports.
24	30. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on
25		application for State employment; penalties.
26	31. G.S. 126-34.1	Grounds for contested case under the State Personnel Act
27		defined.
28	32. G.S. 126-35	Just cause; disciplinary actions for State employees.
29	33. G.S. 126-56	Status of employees of other governments.
30	34. G.S. 126-75	Work options for State employees.
31	35. G.S. 135-5.1	Optional retirement program for The University of North
32		Carolina.
33	36. G.S. 135-48.23	Executive Administrator.
34	37. G.S. 136-4	Chief Engineer.
35	38. G.S. 138-4	Governor to set salaries of administrative officers;
36		exceptions; longevity pay.
37	39. G.S. 138A-3	Definitions.
38	40. G.S. 140-5.15	Director of Museum of Art; appointment; dismissal;
39		powers and duties; staff.
40	41. G.S. 143-166.41	Special separation allowance.
41	42. G.S. 143-641	Powers and duties of the Commission.
42	43. G.S. 143A-9	Appointment of officers and employees; salaries of
43		department heads.
44	44. G.S. 143A-10	Governor; continuation of powers and duties; staff.
45	45. G.S. 143B-5	Governor; continuation of powers and duties.
46	46. G.S. 143B-9	Appointment of officers and employees.
47	47. G.S. 143B-10	Powers and duties of heads of principal departments.
48	48. G.S. 143B-74.2	U.S.S. North Carolina Battleship Commission –
49		employees.
50	49. G.S. 143B-131.9	Roanoke Island Commission staff.
51	50. G.S. 143B-146.7	Consequences for personnel at low-performing schools.

1	51. G.S. 143B-426.11	Powers of Agency.
2	52. G.S. 143B-426.38	Organization and operation of office.
3	53. G.S. 147-33	Compensation and expenses of Lieutenant Governor.
4	54. G.S. 147-33.76	Qualification, appointment, and duties of the State Chief Information Officer.
5		
6	55. G.S. 147-33.77	Office of Information Technology Services; organization and operation.
7		
8	56. G.S. 147-35	Salary of Secretary of State.
9	57. G.S. 147-64.1	Salary of State Auditor.
10	58. G.S. 147-64.10	Powers of appointment.
11	59. G.S. 147-65	Salary of State Treasurer.
12	60. G.S. 153A-77	Authority of boards of commissioners in certain counties over commissions, boards, agencies, etc.
13		
14	61. G.S. 153A-92	Compensation.
15		
16	– Referring to the State Personnel Commission:	
17	1. G.S. 7A-343.1	Distribution of copies of the appellate division reports.
18	2. G.S. 7A-760	Number and status of employees; staff assignments; role of State Personnel Commission.
19		
20	3. G.S. 20-187.3	Quotas prohibited.
21	4. G.S. 53C-2-3	The Office of the Commissioner of Banks.
22	5. G.S. 58-32-10	Powers and duties of Commission.
23	6. G.S. 90B-10	Exemption from certain requirements.
24	7. G.S. 96-29	Openings listed by State agencies.
25	8. G.S. 97-77	North Carolina Industrial Commission created; members appointed by Governor; terms of office; chairman.
26		
27	9. G.S. 108A-9	Duties and responsibilities.
28	10. G.S. 108A-12	Appointment.
29	11. G.S. 108A-13	Salary.
30	12. G.S. 108A-14	Duties and responsibilities.
31	13. G.S. 115C-12	Powers and duties of the Board generally.
32	14. G.S. 115C-12.2	Voluntary shared leave.
33	15. G.S. 115C-84.2	School calendar.
34	16. G.S. 115C-272	Residence, oath of office, and salary of superintendent.
35	17. G.S. 115C-285	Salary.
36	18. G.S. 115C-316	Salary and vacation.
37	19. G.S. 115D-25.3	Voluntary shared leave.
38	20. G.S. 120-123	Service by members of the General Assembly on certain boards and commissions.
39		
40	21. G.S. 122C-121	Area director.
41	22. G.S. 122C-154	Personnel.
42	23. G.S. 126-1	Purpose of Chapter; application to local employees.
43	24. G.S. 126-2	State Personnel Commission.
44	25. G.S. 126-4	Powers and duties of State Personnel Commission.
45	26. G.S. 126-5	Employees subject to Chapter; exemptions.
46	27. G.S. 126-6.2	Reports.
47	28. G.S. 126-7	Annual Compensation Survey.
48	29. G.S. 126-7.1	Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.
49		
50	30. G.S. 126-8	Minimum leave granted State employees.
51	31. G.S. 126-8.3	Voluntary shared leave.

1	32. G.S. 126-8.5	Discontinued service retirement allowance and severance
2		wages for certain State employees.
3	33. G.S. 126-9	County or municipal employees may be made subject to
4		rules adopted by local governing body.
5	34. G.S. 126-10	Personnel services to local governmental units.
6	35. G.S. 126-11	Local personnel system may be established; approval and
7		monitoring; rules and regulations.
8	36. G.S. 126-14.2	Political hirings limited.
9	37. G.S. 126-14.3	Open and fair competition.
10	38. G.S. 126-14.4	Remedies.
11	39. G.S. 126-19	Equal employment opportunity plans; reports;
12		maintenance of services by State Personnel Director.
13	40. G.S. 126-23	Certain records to be kept by State agencies open to
14		inspection.
15	41. G.S. 126-25	Remedies of employee objecting to material in file.
16	42. G.S. 126-26	Rules and regulations.
17	43. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on
18		application for State employment; penalties.
19	44. G.S. 126-34.2	Alternative dispute resolution.
20	45. G.S. 126-35	Just cause; disciplinary actions for State employees.
21	46. G.S. 126-58	Administration.
22	47. G.S. 126-74	Work Options Program established.
23	48. G.S. 126-75	Work options for State employees.
24	49. G.S. 126-76	Promoting Work Options Program.
25	50. G.S. 126-77	Authority of agencies to participate.
26	51. G.S. 126-78	Administration.
27	52. G.S. 126-79	Report required.
28	53. G.S. 126-82	State Personnel Commission to provide for preference.
29	54. G.S. 138A-24	Contents of statement.
30	55. G.S. 143-27.2	Discontinued service retirement allowance and severance
31		wages for certain State employees.
32	56. G.S. 143-554	Right of employee appeal.
33	57. G.S. 143-583	Model program; technical assistance; reports.
34	58. G.S. 143-584	State agency safety and health committees.
35	59. G.S. 143B-10	Powers and duties of heads of principal departments.
36	60. G.S. 148-118.8	Appointment, salary, and authority of Executive Director
37		and inmate grievance examiners.
38	61. G.S. 150B-2	Definitions.
39		
40	– Referring to the State Personnel Director:	
41	1. G.S. 20-79.5	Special registration plates for elected and appointed State
42		government officials.
43	2. G.S. 95-127	Definitions.
44	3. G.S. 126-3	Office of State Personnel established and responsibilities
45		outlined; administration and supervision; appointment,
46		compensation and tenure of Director.
47	4. G.S. 126-4	Powers and duties of State Personnel Commission.
48	5. G.S. 126-5	Employees subject to Chapter; exemptions.
49	6. G.S. 126-8.5	Discontinued service retirement allowance and severance
50		wages for certain State employees.

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- 1 32. G.S. 143-345.24 State Suggestion Review Committee.
2 33. G.S. 143-345.25 Innovations deemed property of the State; effect of
3 decisions regarding bonuses.
4 34. G.S. 143-583 Model program; technical assistance; reports.
5 35. G.S. 143B-10 Powers and duties of heads of principal departments.
6 36. G.S. 143B-53.2 Salaries, promotions, and leave of employees of the
7 North Carolina Department of Cultural Resources.
8 37. G.S. 143B-146.21 Policies, reports, and other miscellaneous provisions.
9 38. G.S. 143B-394.15 Commission established; purpose; membership;
10 transaction of business.
11 39. G.S. 143B-417 North Carolina Internship Council creation; powers and
12 duties.
13 40. G.S. 143B-806 Duties and powers of the Division of Juvenile Justice of
14 the Department of Public Safety.
15 41. G.S. 147-54.3 Land records management program.
16 42. G.S. 148-22.1 Educational facilities and programs for selected inmates.

17 **SECTION 9.2.** No action or proceeding pending on the effective date of this
18 section, brought by or against the State Personnel Commission, the Director of the Office of
19 State Personnel, or the Office of State Personnel, shall be affected by any provision of this
20 section, but the same may be prosecuted or defended in the new name of the Commission,
21 Director, and Office. In these actions and proceedings, the renamed Commission, Director, or
22 Office shall be substituted as a party upon proper application to the courts or other public
23 bodies.

24 **SECTION 9.3.** Any business or other matter undertaken or commanded by the
25 former State Personnel Commission, State Personnel Director, or Office of State Personnel
26 regarding any State program, office, or contract or pertaining to or connected with their
27 respective functions, powers, obligations, and duties that are pending on the date this act
28 becomes effective may be conducted and completed by the Commission, Director, or Office in
29 the same manner and under the same terms and conditions and with the same effect as if
30 conducted and completed by the formerly named commission, director, or office.

31 **SECTION 9.4.** This Part is effective when it becomes law.
32

33 **PART X. EFFECTIVE DATE**

34 **SECTION 10.1.** Unless otherwise provided, this act is effective when it becomes
35 law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 834
Committee Substitute Favorable 5/9/13
Committee Substitute #2 Favorable 5/14/13

Short Title: Modern State Human Resources Management/RTR. (Public)

Sponsors:

Referred to:

April 11, 2013

A BILL TO BE ENTITLED
AN ACT ENHANCING THE EFFECTIVENESS AND EFFICIENCY OF STATE
GOVERNMENT BY MODERNIZING THE STATE'S SYSTEM OF HUMAN
RESOURCES MANAGEMENT AND BY PROVIDING FLEXIBILITY FOR
EXECUTIVE BRANCH REORGANIZATION AND RESTRUCTURING.

The General Assembly of North Carolina enacts:

PART I. ORGANIZATIONAL AND ADMINISTRATIVE CHANGES

SECTION 1.1. G.S. 126-3(a) reads as rewritten:

"(a) There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the ~~Department of Administration~~ Office of the Governor. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws, Chapter 143A of the General Statutes, the Office of State Personnel shall exercise all of its statutory powers in this ~~Chapter independent of control by the Secretary of Administration and Chapter~~, which shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the Governor. The Director shall serve at the pleasure of the Governor."

SECTION 1.2. G.S. 126-3(a)(8) reads as rewritten:

"(8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards in agencies, departments, and institutions to which authority has been delegated for classification, salary ~~administration~~ administration, performance management, development, evaluation, and other decentralized programs, and determining through routine monitoring and periodic review process, that agencies, departments, and institutions are in compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards."

SECTION 1.3. G.S. 126-4(5) reads as rewritten:

"§ 126-4. Powers and duties of State Personnel Commission.

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

...



* H 8 3 4 - V - 3 *

- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than ~~11~~12 paid holidays per year ~~except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays year, with three paid holidays being given for Christmas.~~"

SECTION 1.4. This Part is effective when it becomes law.

PART II. STATE PERSONNEL COMMISSION CHANGES

SECTION 2.1. G.S. 126-2 reads as rewritten:

"§ 126-2. State Personnel Commission.

(a) There is hereby established the State Personnel Commission (hereinafter referred to as "the Commission").

(b) ~~The Commission shall consist of nine members, appointed as follows:~~

- (1) ~~Two members shall be attorneys licensed to practice law in North Carolina appointed by the General Assembly, one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate.~~

~~The initial two attorney members appointed under this subdivision shall serve terms expiring June 30, 2004; the terms of subsequent appointees shall be six years.~~

- (2) ~~Two persons from private business or industry appointed by the Governor, both of whom shall have a working knowledge of, or practical experience in, human resources management. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be six years.~~

- (3) ~~Two State employees subject to the State Personnel Act serving in nonexempt positions, appointed by the Governor, including one of whom is a veteran of the Armed Forces of the United States appointed upon the nomination of the Veterans' Affairs Commission. One employee shall serve in a State government position having supervisory duties, and one employee shall serve in a nonsupervisory position. Neither employee may be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina. The initial members appointed under this subdivision shall serve terms expiring June 30, 2001; the terms of subsequent appointees shall be six years.~~

- (4) ~~Two local government employees subject to the State Personnel Act appointed by the Governor upon recommendation of the North Carolina Association of County Commissioners, one a nonsupervisory local employee and one a supervisory local employee. Neither local government employee may be a human resources professional. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be for six years.~~

- (5) ~~One member of the public at large appointed by the Governor. The initial member appointed under this subdivision shall serve for a term expiring June 30, 2001; the terms of subsequent appointees shall be for six years.~~

(b1) The Commission shall consist of nine members, appointed as follows:

- (1) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be an attorney licensed to practice law in North Carolina.
 - (2) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be an attorney licensed to practice law in North Carolina.
 - (3) One member appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.
 - (4) One member appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate who shall be from private business or industry and who shall have a working knowledge of, or practical experience in, human resources management.
 - (5) One member who is a veteran of the Armed Forces of the United States appointed by the Governor upon the nomination of the Veterans Affairs Commission and who is a State employee subject to this Chapter serving in a nonexempt supervisory position. The member may not be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina.
 - (6) One member appointed by the Governor who is a State employee subject to this Chapter serving in a nonexempt nonsupervisory position. The member may not be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina.
 - (7) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a supervisory position. The member may not be a human resources professional.
 - (8) One member appointed by the Governor upon the recommendation of the North Carolina Association of County Commissioners who is a local government employee subject to this Chapter serving in a nonsupervisory position. The member may not be a human resources professional.
 - (9) One member of the public at large appointed by the Governor.
- (c) Each member of the Commission shall be appointed for a term of four years. Members of the Commission may serve no more than two consecutive terms. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.
- (d) No member of the Commission may serve on a case where there would be a conflict of interest. The appointing authority may at any time remove any Commission member for cause.
- (e) Members of the Commission who are State or local government employees subject to ~~the State Personnel Act~~ this Chapter shall be entitled to administrative leave without loss of pay for all periods of time required to conduct the business of the Commission.
- (f) Six members of the Commission shall constitute a quorum.
- (g) The Governor shall designate one member of the Commission as chair.
- (h) The Commission shall meet quarterly, and at other times at the call of the chair."
- SECTION 2.2.** The terms of the two attorney members appointed under G.S. 126-2(b)(1), serving on the Commission on January 1, 2013, shall expire on June 30,

2013. The terms of the persons from private business or industry appointed under G.S. 126-2(b)(2), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the two local government employees appointed under G.S. 126-2(b)(4), serving on the Commission on January 1, 2013, shall expire on June 30, 2014. The term of the public at-large member appointed under G.S. 126-2(b)(5), serving on the Commission on January 1, 2013, shall expire June 30, 2013. If the terms of office eliminated in this act have not been set out, then the appointing authorities shall determine by July 1, 2013, which terms to eliminate to achieve the membership totals pursuant to this act. After determining which terms to eliminate, the appointing authority shall notify in writing all the persons and entities required to receive notification pursuant to G.S. 143-47.7.

SECTION 2.3. This Part is effective when it becomes law.

PART III. PROBATIONARY AND CAREER STATE EMPLOYEES

SECTION 3.1. G.S. 126-1.1 reads as rewritten:

"§ 126-1.1. Career State employee defined.

(a) For the purposes of this Chapter, unless the context clearly indicates otherwise, "career State employee" means a State employee or an employee of a local entity who is covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

- (1) Is in a permanent position and permanent appointment; and
- (2) Has been continuously employed by the State of North Carolina or a local entity as provided in G.S. 126-5(a)(2) in a position subject to the State Personnel Act for the immediate ~~24~~¹² preceding months.

(b) As used in this Chapter, "probationary State employee" means a State employee who is in a probationary appointment and is exempt from the provisions of the State Personnel Act only because the employee has not been continuously employed by the State for the time period required by subsection (a) of this section."

SECTION 3.2. G.S. 126-15.1 is repealed.

SECTION 3.3. This Part is effective when it becomes law.

PART IV. EXEMPT POSITION MODIFICATIONS

SECTION 4.1. G.S. 126-5(d)(1) reads as rewritten:

- "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this Chapter, which is known as the State Personnel Act, the Governor may designate a total of ~~1,000~~^{1,500} exempt positions throughout the following ~~departments~~^{departments and offices}:
- a. Department of Administration.
 - b. Department of Commerce.
 - c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.
 - d. Department of Public Safety.
 - e. Department of Cultural Resources.
 - f. Department of Health and Human Services.
 - g. Department of Environment and Natural Resources.
 - h. Department of Revenue.
 - i. Department of Transportation.
 - j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012, and by Session Laws 2012-142, s. 25.2E(a), effective January 1, 2013.

k. Office of Information Technology Services.

l. Office of State Budget and Management.

m. Office of State Personnel.

Notwithstanding the provisions of this subdivision or the other requirements of this subsection, the Governor may at any time designate up to one percent (1%) of the total number of full-time positions in the Department of Public Safety, not to exceed 100 positions, as exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other requirements of this subsection, the Governor may at any time increase by five the number of exempt policy-making positions at the Department of Public Safety, but at no time shall the total number of exempt policy-making positions exceed 105."

SECTION 4.2. G.S. 147-33.77(a) reads as rewritten:

"(a) The State Chief Information Officer may appoint a Chief Deputy Information Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief Information Officer. The State Chief Information Officer may appoint all employees, including legal counsel, necessary to carry out the powers and duties of the office. These employees shall be subject to the State Personnel Act, except that employees in positions designated as exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of that section."

SECTION 4.3. G.S. 126-5(e) is repealed.

SECTION 4.4. G.S. 126-5(f) is repealed.

SECTION 4.5. G.S. 126-5(d)(5) reads as rewritten:

"(d) ...

(5) Creation, Transfer, or Reorganization. – The Governor, elected department head, or State Board of Education may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after July 1–October 1 of the year in which the oath of office is administered to the Governor. The designation must be made in a letter to the State Personnel Director, the Speaker of the North Carolina House of Representatives, and the President of the North Carolina Senate within 180 days after such position is created, transferred, or in which reorganization has occurred."

SECTION 4.6. This Part becomes effective June 30, 2013, with the repeal of the provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after that date.

PART V. REDUCTIONS IN FORCE

SECTION 5.1. G.S. 126-7.1 reads as rewritten;

"§ 126-7.1. **Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.**

...

(e) If a State employee subject to this section:

(1) Applies for another position of State employment that would constitute a promotion; and

(2) Has substantially equal qualifications as an applicant who is not a State ~~employee~~ employee;

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.

(f) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:

(1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and

(2) Has substantially equal qualifications as any other applicant; then within all State agencies, the State employee who has been notified of or separated due to a reduction in force shall receive priority consideration over all other applicants. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal.

(f1) If a State employee who has been separated due to reduction-in-force or who has been given notice of imminent separation due to reduction-in-force accepts or rejects an offer for a position of State employment that is equal to or higher than the position held or equal to or higher than the salary earned by the employee at the time of separation or notification, then the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time, 12-month priority granted by subsection (f) of this section.

...."

SECTION 5.2. This Part is effective when it becomes law and applies to reductions-in-force implemented on or after that date.

PART VI. EMPLOYEE GRIEVANCES

SECTION 6.1. Article 8 of Chapter 126 of the General Statutes reads as rewritten:

"Article 8.

"Employee Appeals of Grievances and Disciplinary Action.

"§ 126-34.01 Grievance appeal; resolution.

Any State employee having a grievance arising out of or due to the employee's employment shall first discuss the problem or grievance with the employee's supervisor, unless the problem or grievance is with the supervisor. Then the employee shall follow the grievance procedure established by the employee's agency and approved by the State Personnel Commission.

"§ 126-34.02 Grievance process; grounds.

(a) An applicant for State employment, a State employee, or former State employee may file a grievance with the State Personnel Commission provided the grievant has followed the agency grievance procedure.

The Office of State Personnel shall administer the grievance hearing process. Grievance hearings shall be conducted before hearing officers designated by the Director of the Office of State Personnel. It is the duty of the hearing officer to prepare a record of the hearing and to submit, within 60 days of the date the hearing officer receives the grievance, a recommended decision to the State Personnel Commission for its consideration unless the Commission grants an extension of time for good cause shown.

The State Personnel Commission may modify, accept, or reject the recommendation of the hearing officer. If the hearing officer's recommended decision is rejected by the Commission, the Commission shall issue its own findings, conclusions, and decision within 90 days.

The decision of the State Personnel Commission is subject to review by the Office of Administrative Hearings under Chapter 150B of the General Statutes. The Office of Administrative Hearings may reverse or affirm the decision of the State Personnel Commission within 60 days. If no such order is entered, the decision of the State Personnel Commission becomes final and is subject to judicial review.

The decision of the State Personnel Commission is subject to review by the Office of Administrative Hearings. If the reviewing administrative law judge finds that the decision was

1 unsupported by any competent evidence or was an abuse of discretion, then the judge may
2 affirm, reverse, or modify the decision; or remand the case for further proceedings.

3 The decision of the Office of Administrative Hearings is subject to judicial review pursuant
4 to Article 4 of Chapter 150B of the General Statutes, except that if the State Personnel
5 Commission's decision is supported by any competent evidence the decision shall be affirmed
6 by the superior court.

7 (b) The following issues may be grieved to the State Personnel Commission after the
8 completion of the agency grievance procedure:

9 (1) Discrimination or harassment. – An applicant for State employment, a State
10 employee, or former State employee may allege discrimination or
11 harassment based on race, religion, color, national origin, sex, age,
12 disability, genetic information, or political affiliation if the employee
13 believes that he or she has been discriminated against in his or her
14 application for employment or in the terms and conditions of the employee's
15 employment, or in the termination of his or her employment.

16 (2) Retaliation. – An applicant for State employment, a State employee, or
17 former State employee may allege retaliation for protesting discrimination
18 based on race, religion, color, national origin, sex, age, disability, political
19 affiliation, or genetic information if the employee believes that he or she has
20 been retaliated against in his or her application for employment or in the
21 terms and conditions of the employee's employment, or in the termination of
22 the employee's employment.

23 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
24 may allege that he or she was dismissed, demoted, or suspended for
25 disciplinary reasons without just cause. A dismissal, demotion, or suspension
26 which is not imposed for disciplinary reasons shall not be considered a
27 disciplinary action within the meaning of this section. In cases of such
28 disciplinary action the employee shall, before the action is taken, be
29 furnished with a statement in writing setting forth the specific acts or
30 omissions that are the reasons for the disciplinary action and the employee's
31 appeal rights. The employee shall be permitted 15 days from the date the
32 statement is delivered to appeal under the agency grievance procedure.
33 However, an employee may be suspended without warning pending the
34 giving of written reasons in order to avoid undue disruption of work, to
35 protect the safety of persons or property, or for other serious reasons.

36 (4) Veteran's preference. – An applicant for State employment or State
37 employee may allege that he or she was denied veteran's preference in
38 violation of the law.

39 (5) Failure to post or give priority consideration. – An applicant for State
40 employment or a State employee may allege that he or she was denied hiring
41 or promotion because a position was not posted in accordance with this
42 Chapter or because he or she was denied hiring or promotion as a result of a
43 failure to give priority consideration for promotion or reemployment as
44 required by G.S. 126-7.1.

45 (6) Whistleblower. – A whistleblower grievance as provided for in this Chapter.

46 (c) Any issue for which appeal to the State Personnel Commission has not been
47 specifically authorized by this Chapter shall not be grounds for a grievance to the Commission
48 or any other State forum.

49 (d) In grievance appeals conducted pursuant to this Chapter, the burden of showing that
50 a career State employee was discharged, demoted, or suspended for just cause rests with the
51 employer. In all other grievance appeals, the burden of proof rests on the employee.

1 (e) Any grievance appeal of the final decision of an agency head must be brought
2 within 30 days from the day of receipt of the decision.

3 (f) The decision of the State Personnel Commission is advisory for covered local
4 government employees.

5 (g) The State Personnel Commission may award attorneys' fees to an employee where
6 reinstatement or back pay is ordered or where an employee prevails in a whistleblower
7 grievance. The remedies in this subsection are not exclusive remedies.

8 **"§ 126-34. Grievance appeal for career State employees.**

9 ~~Unless otherwise provided in this Chapter, any career State employee having a grievance~~
10 ~~arising out of or due to the employee's employment and who does not allege unlawful~~
11 ~~harassment or discrimination because of the employee's age, sex, race, color, national origin,~~
12 ~~religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall~~
13 ~~first discuss the problem or grievance with the employee's supervisor and follow the grievance~~
14 ~~procedure established by the employee's department or agency. Any State employee having a~~
15 ~~grievance arising out of or due to the employee's employment who alleges unlawful harassment~~
16 ~~because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping~~
17 ~~condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's~~
18 ~~department or agency. The department or agency shall have 60 days within which to take~~
19 ~~appropriate remedial action. If the employee is not satisfied with the department or agency's~~
20 ~~response to the complaint, the employee shall have the right to appeal directly to the Office of~~
21 ~~Administrative Hearings.~~

22 **"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.**

23 (a) ~~A State employee or former State employee may file in the Office of Administrative~~
24 ~~Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to~~
25 ~~the following personnel actions or issues:~~

- 26 (1) ~~Dismissal, demotion, or suspension without pay based upon an alleged~~
27 ~~violation of G.S. 126-35, if the employee is a career State employee.~~
- 28 (2) ~~An alleged unlawful State employment practice constituting discrimination,~~
29 ~~as proscribed by G.S. 126-36, including:~~
 - 30 a. ~~Denial of promotion, transfer, or training, on account of the~~
31 ~~employee's age, sex, race, color, national origin, religion, creed,~~
32 ~~political affiliation, or handicapping condition as defined by Chapter~~
33 ~~168A of the General Statutes.~~
 - 34 b. ~~Demotion, reduction in force, or termination of an employee in~~
35 ~~retaliation for the employee's opposition to alleged discrimination on~~
36 ~~account of the employee's age, sex, race, color, national origin,~~
37 ~~religion, creed, political affiliation, or handicapping condition as~~
38 ~~defined by Chapter 168A of the General Statutes.~~
- 39 (3) ~~Retaliation against an employee, as proscribed by G.S. 126-17, for protesting~~
40 ~~an alleged violation of G.S. 126-16.~~
- 41 (4) ~~Denial of the veteran's preference granted in accordance with Article 13 of~~
42 ~~this Chapter in initial State employment or in connection with a reduction in~~
43 ~~force, for an eligible veteran as defined by G.S. 126-81.~~
- 44 (5) ~~Denial of promotion for failure to post or failure to give priority~~
45 ~~consideration for promotion or reemployment, to a career State employee as~~
46 ~~required by G.S. 126-7.1 and G.S. 126-36.2.~~
- 47 (6) ~~Denial of an employee's request for removal of allegedly inaccurate or~~
48 ~~misleading information from the employee's personnel file as provided by~~
49 ~~G.S. 126-25.~~
- 50 (7) ~~Any retaliatory personnel action that violates G.S. 126-85.~~

- ~~(8) Denial of promotion in violation of G.S. 126-14.2, where an initial determination found probable cause to believe there has been a violation of G.S. 126-14.2.~~
- ~~(9) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~
- ~~(10) Harassment in the workplace based upon age, sex, race, color, national origin, religion, creed, or handicapping condition, whether the harassment is based upon the creation of a hostile work environment or upon a quid pro quo.~~
- ~~(11) Violation of any of the following federal statutes as applied to the employee:~~
- ~~a. The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.~~
 - ~~b. The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.~~
 - ~~c. The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.~~
 - ~~d. The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.~~
- ~~(b) An applicant for initial State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:~~
- ~~(1) Alleged denial of employment in violation of G.S. 126-16.~~
 - ~~(2) Denial of the applicant's request for removal of allegedly inaccurate or misleading information from the personnel file as provided by G.S. 126-25.~~
 - ~~(3) Denial of equal opportunity for employment and compensation on account of the employee's age, sex, race, color, national origin, religion, creed, political affiliation, or handicapping condition as defined by Chapter 168A of the General Statutes. This subsection with respect to equal opportunity as to age shall be limited to persons who are at least 40 years of age. An applicant may not, however, file a contested case where political affiliation was the reason for the person's nonselection for (i) an exempt policymaking position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief administrative assistant position under G.S. 126-5(c)(4), or (iii) a confidential assistant or confidential secretary position under G.S. 126-5(e)(2).~~
 - ~~(4) Denial of the veteran's preference in initial State employment provided by Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.~~
 - ~~(5) Denial of employment in violation of G.S. 126-14.2, where an initial determination found probable cause to believe that there has been a violation of G.S. 126-14.2.~~
- ~~(c) In the case of a dispute as to whether a State employee's position is properly exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes.~~
- ~~(d) A State employee or applicant for State employment may file in the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon a false accusation regarding, or disciplinary action relating to, the employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.~~
- ~~(e) Any issue for which appeal to the Office of Administrative Hearings through the filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been specifically authorized by this section shall not be grounds for a contested case under Chapter 126.~~
- "§ 126-34.2. Alternative dispute resolution.**
- In its discretion, the Commission may adopt alternative dispute resolution procedures for the resolution of matters constituting and not constituting grounds for a grievance under this**

1 Article. Any matters not constituting grounds for a grievance under this Article shall not be
2 heard by the Office or the Commission.

3 ~~(a) Notwithstanding the provisions of Articles 6 and 7 of this Chapter, or the other~~
4 ~~provisions of this Article, with the consent of the parties, a matter for which a State employee, a~~
5 ~~former State employee, or an applicant for State employment has filed a contested case under~~
6 ~~Article 3 of Chapter 150B of the General Statutes may be handled in accordance with~~
7 ~~alternative dispute resolution procedures adopted by the State Personnel Commission.~~

8 ~~(b) In its discretion, the State Personnel Commission may adopt alternative dispute~~
9 ~~resolution procedures for the resolution of matters not constituting grounds for a contested case~~
10 ~~under G.S. 126-34.1.~~

11 ~~(c) Nothing in this section shall be construed to limit the right of any person to file in~~
12 ~~the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the~~
13 ~~General Statutes.~~

14 **"§ 126-34.3. Judicial review of fee awards.**

15 With respect to a decision of the State Personnel Commission assessing or refusing to
16 assess reasonable witness fees or a reasonable attorneys' fee, the reviewing court may reverse
17 or modify the decision of the Commission if the decision is unreasonable or the award is
18 inadequate. The reviewing court shall award court costs and a reasonable attorneys' fee for
19 representation in connection with the appeal to an employee who obtains a reversal or
20 modification of the Commission's decision in an appeal under this section.

21 **"§ 126-36. Appeal of unlawful State employment practice.**

22 ~~(a) Any State employee or former State employee who has reason to believe that~~
23 ~~employment, promotion, training, or transfer was denied the employee or that demotion, layoff,~~
24 ~~transfer, or termination of employment was forced upon the employee in retaliation for~~
25 ~~opposition to alleged discrimination or because of the employee's age, sex, race, color, national~~
26 ~~origin, religion, creed, political affiliation, or handicapping condition as defined by~~
27 ~~G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide~~
28 ~~occupational qualification necessary to proper and efficient administration, shall have the right~~
29 ~~to appeal directly to the Office of Administrative Hearings.~~

30 ~~(b) Subject to the requirements of G.S. 126-34, any State employee or former State~~
31 ~~employee who has reason to believe that the employee has been subjected to any of the~~
32 ~~following shall have the right to appeal directly to the Office of Administrative Hearings:~~

33 ~~(1) Harassment in the workplace based upon age, sex, race, color, national~~
34 ~~origin, religion, creed, or handicapping condition, whether the harassment is~~
35 ~~based upon the creation of a hostile work environment or upon a quid pro~~
36 ~~quo.~~

37 ~~(2) Retaliation for opposition to harassment in the workplace based upon age,~~
38 ~~sex, race, color, national origin, religion, creed, or handicapping condition,~~
39 ~~whether the harassment is based upon the creation of a hostile work~~
40 ~~environment or upon a quid pro quo."~~

41 **"§ 126-36.2. Appeal to Office of Administrative Hearings by career State employee**
42 **denied notice of vacancy or priority consideration.**

43 Any career State employee who has reason to believe that he was denied promotion due to
44 the failure of the agency, department, or institution that had a job vacancy to:

45 ~~(1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;~~

46 ~~(2) Give him priority consideration pursuant to G.S. 126-7.1(c) may appeal~~
47 ~~directly to the Office of Administrative Hearings.~~

48 **"§ 126-37. Administrative Law Judge's final decision.**

49 ~~(a) Appeals involving a disciplinary action, alleged discrimination or harassment, and~~
50 ~~any other contested case arising under this Chapter shall be conducted in the Office of~~
51 ~~Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance~~

1 may be appealed unless the employee has complied with G.S. 126-34. The administrative law
2 judge is hereby authorized to reinstate any employee to the position from which the employee
3 has been removed, to order the employment, promotion, transfer, or salary adjustment of any
4 individual to whom it has been wrongfully denied or to direct other suitable action to correct
5 the abuse which may include the requirement of payment for any loss of salary which has
6 resulted from the improperly discriminatory action of the appointing authority.

7 (b) Repealed by 1993 (Reg. Sess., 1994), c. 572, s. 1.

8 (b1) Repealed by Session Laws 2011-398, s. 44, effective January 1, 2012, and
9 applicable to contested cases commenced on or after that date.

10 (b2) The final decision is subject to judicial review pursuant to Article 4 of Chapter 150B
11 of the General Statutes. Appeals in which it is found that discrimination prohibited by Article 6
12 of this Chapter has occurred or in any case where a binding decision is required by applicable
13 federal standards shall be heard as all other appeals.

14 (c) If the local appointing authority is other than a board of county commissioners, the
15 local appointing authority must give the county notice of the appeal taken pursuant to
16 subsection (a) of this section. Notice must be given to the county manager or the chairman of
17 the board of county commissioners by certified mail within 15 days of the receipt of the notice
18 of appeal. The county may intervene in the appeal within 30 days of receipt of the notice. If the
19 action is appealed to superior court the county may intervene in the superior court proceeding
20 even if it has not intervened in the administrative proceeding. The decision of the superior court
21 shall be binding on the county even if the county does not intervene.

22 **"§ 126-38. Time limit for appeals.**

23 Any employee appealing any decision or action shall file a petition for a contested case
24 with the Office of Administrative Hearings as provided in G.S. 150B-23(a) no later than 30
25 days after receipt of notice of the decision or action which triggers the right of appeal.

26 **"§ 126-39. Scope of this Article.**

27 Except for positions subject to competitive service and except for appeals brought under
28 G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career
29 State employees at the time of the act, grievance, or employment practice complained of.

30 **"§ 126-40: Repealed by Session Laws 1985, c. 746, s. 16.**

31 **"§ 126-41. Attorney and witness fees.**

32 The decision of the Commission assessing or refusing to assess reasonable witness fees or a
33 reasonable attorney's fee as provided in G.S. 126-4(11) is a final agency decision appealable
34 under Article 4 of Chapter 150B of the General Statutes. The reviewing court may reverse or
35 modify the decision of the Commission if the decision is unreasonable or the award is
36 inadequate. The reviewing court shall award court costs and a reasonable attorney's fee for
37 representation in connection with the appeal to an employee who obtains a reversal or
38 modification of the Commission's decision in an appeal under this section.

39 **"§ 126-42. Reserved for future codification purposes."**

40 **SECTION 6.2.** G.S. 126-7.2 reads as rewritten:

41 **"§ 126-7.2. Time limit for appeals of applicants and noncareer State employees.**

42 Any applicant or employee that has not attained career status, appealing any decision or
43 action shall file a petition for contested case hearing with the Office of Administrative Hearings
44 as provided in G.S. 150B-23(a) an appeal with the Office of State Personnel no later than 30
45 days after receipt of notice of the final agency decision or action which triggers the right of
46 appeal."

47 **SECTION 6.3.** This Part is effective when it becomes law.

49 **PART VII. OTHER MODERNIZING AND CONFORMING CHANGES**

50 **SECTION 7.1.** G.S. 126-16 reads as rewritten:

"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.

All State ~~departments and agencies~~ agencies, departments, and institutions and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, ~~ered~~, national origin, sex, age, disability, or genetic information to all persons otherwise qualified, ~~or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of age."~~

SECTION 7.2. G.S. 126-16.1 reads as rewritten:

"§ 126-16.1. Equal employment opportunity training.

Each State agency, department, and institution, and The University of North Carolina, shall enroll each newly appointed supervisor or manager within one year of appointment in the Equal Employment Opportunity training offered or approved by the Office of State Personnel.

~~Each State agency, each State department, and The University of North Carolina shall:~~

(1) ~~Enroll each newly appointed supervisor or manager within one year of appointment in the Equal Employment Opportunity Institute operated by the Division of Equal Opportunity Services of the Office of State Personnel. Current managers and supervisors are encouraged to enroll/participate in the Institute.~~

(2) ~~Be responsible for providing supplies and resource materials for managers and supervisors who are enrolled from that department, agency or university."~~

SECTION 7.3. G.S. 126-19 reads as rewritten:

"§ 126-19. Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.

(a) Each member of the Council of State under G.S. 143A-11, each of the principal departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch, and the legislative branch, shall develop and submit on an annual basis an Equal Employment Opportunity plan which shall include goals and programs that provide positive measures to assure equitable and fair representation of North Carolina's citizens. The plans developed by the judicial branch and by the Legislative Services Office on behalf of the legislative branch shall be submitted to the General Assembly on or before June 1 of each year. All other such plans shall be submitted to the State Personnel Director for review and approval on or before March 1, of each year.

(b) ~~The State Personnel Commission shall submit a report to the General Assembly concerning the status of Equal Employment Opportunity plans and programs for all State departments, agencies, universities, which are required by this Chapter to report to the State Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the report shall contain reasons for disapproval. The status report submitted to the General Assembly by the State Personnel Director and the plans submitted to the General Assembly by the judicial branch and the Legislative Services Office on behalf of the legislative branch shall contain the total number of persons employed in each job category, the race, sex, salary, and other demographics relative to persons hired and promoted during the reporting period, analysis of the data, and an indication as to which goals were achieved.~~

(c) ~~The State Personnel Director shall at least maintain current~~ will provide services of Equal Employment Opportunity technical assistance, training, oversight, monitoring, evaluation, support programs, and reporting to assure that State government's work force is diverse at all occupational levels. These services shall be provided by qualified personnel at all occupational levels reflect North Carolina's population. To the extent reasonably possible, these

1 services shall be provided by qualified personnel who have continuous experience in the field
2 of Equal Employment Opportunity and affirmative action and who are sensitive to
3 circumstances and experiences of individuals from diverse backgrounds and cultures, and
4 recognize that efficient and effective government requires the talents, skills, and abilities of all
5 available human resources."

6 SECTION 7.4.(a) G.S. 126-25 reads as rewritten:

7 "§ 126-25. Remedies of employee objecting to material in file.

8 (a) An employee, former ~~employee-employee~~, or applicant for employment who objects
9 to material in ~~his-the employee's~~ file may place in his or her file a written statement relating to
10 the material ~~he-the employee~~ considers to be inaccurate or misleading.

11 (b) An employee, former ~~employee-employee~~, or applicant for employment who objects
12 to material in ~~his-the employee's~~ file because he or she considers it inaccurate or misleading
13 may seek the removal of such material from ~~his-the~~ file in accordance with a grievance
14 procedure established by that department. If the agency determines that material in the
15 employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate
16 material to ensure that the file is accurate. Nothing in this subsection shall be construed to
17 permit an employee to appeal the contents of a performance appraisal or written disciplinary
18 action, the grievance procedure of that department, including appeal to the State Personnel
19 Commission. When a department, division, bureau, commission, or other agency agrees or is
20 ordered by the State Personnel Commission or by the General Court of Justice of this State to
21 remove inaccurate or misleading material from an employee's file, which information was
22 placed in the file by the supervisor or other agent of management, it shall destroy the original
23 and all copies of the material removed and may not retain any inaccurate or misleading
24 information derived from the material removed."

25 SECTION 7.4.(b) G.S. 126-26 reads as rewritten:

26 "§ 126-26. Rules and ~~regulations~~-policies.

27 The State Personnel Commission shall prescribe such rules and ~~regulations~~-policies as it
28 deems necessary to implement the provisions of this Article."

29 SECTION 7.5. G.S. 126-6.2 reads as rewritten:

30 "§ 126-6.2. Reports.

31 (a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency,
32 department, or institution employing State employees subject to the State Personnel Act shall
33 report to the Office of State Personnel on the following:

34 (1) The costs associated with the defense or settlement of administrative
35 grievances and lawsuits filed by current or former State employees and
36 applicants for State employment, including the costs of settlements,
37 attorneys' fees, litigation expenses, damages, or awards incurred by the
38 respective State agencies, departments, and institutions. The report shall
39 include an explanation of the fiscal impact of these costs upon the operations
40 of the State agency, department, or institution.

41 (2) Any other human resources functions or actions as may be requested by the
42 Director of the Office of State Personnel in order for the Office to evaluate
43 the efficiency, productivity, and compliance of a State agency, department,
44 or institution with policies including, but not limited to, the compensation of
45 State employees, voluntary shared-leave programs, equal employment
46 opportunity plans and programs, and work options programs. The
47 modification of position descriptions resulting in changes in position
48 qualifications to allow the use of educational, experience, or other
49 equivalencies in the hiring or promotion of State employees where such
50 equivalencies were not previously used in the position descriptions. The

~~report shall include an explanation of the reasons for the changes in the position descriptions and the bases for the use of the equivalencies.~~

(b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission shall report to the Joint Legislative Commission on Governmental Operations on the costs associated with the defense or settlement of lawsuits ~~and on the use of position qualification equivalencies, as compiled in accordance with lawsuits, and upon request, on the results of any other reports regarding human resources action or functions pursuant to subsection (a) of this section.~~

~~(c) Beginning May 1, 1998, and then annually thereafter, the State Personnel Commission, through the Office of State Personnel, shall report to the Joint Legislative Commission on Governmental Operations on outcomes with respect to State employee hirings, promotions, disciplinary actions, and compensation, based upon demographics."~~

SECTION 7.6. G.S. 126-14.4 is repealed.

SECTION 7.7. G.S. 126-79 is repealed.

SECTION 7.8. G.S. 126-8.3(c) reads as rewritten:

"(c) The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges ~~Colleges, and all State agencies, departments, and institutions~~ shall annually report to the Office of State Personnel on the voluntary shared leave program. For the prior fiscal year, the report shall include the total number of days or hours of vacation leave and sick leave donated and used by voluntary shared leave recipients and the total cost of the vacation leave and sick leave donated and used. ~~The State Personnel Commission, the State Board of Education, and the State Board of Community Colleges shall provide a report for each fiscal year as required by this section to the Joint Legislative Commission on Governmental Operations and to the Fiscal Research Division on or before October 15 each year."~~

SECTION 7.9.(a) G.S. 126-7(b) is repealed.

SECTION 7.9.(b) Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-7.3. Annual compensation surveys.

To guide the Governor and the General Assembly in making decisions regarding the compensation of State employees, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House of Representatives and the Senate no later than two weeks after the convening of the legislature in odd-numbered years and May 1st of even-numbered years."

SECTION 7.10. This Part is effective when it becomes law.

PART VIII. REORGANIZATION THROUGH REDUCTION PROGRAM

SECTION 8.1. In order to provide for the most effective and efficient delivery of services and performance of functions by the executive branch, the Governor may do all of the following:

- (1) Restructure and reorganize in the executive branch in a manner defined by the number of positions, employee skills, and employee qualifications.
- (2) Direct that reorganization shall be led by the organizational units that are being reorganized.
- (3) Direct that organizations collaborate in planning and executing reorganization and restructuring across executive branch agencies and departments.

SECTION 8.2. The Office of State Personnel, in conjunction with the Office of State Budget and Management (OSBM), may develop the Reorganization Through Reduction Program (RTR). The RTR shall be one option available for reorganization and restructuring. The RTR is authorized to serve as an employee volunteer separation program to accomplish

reorganization and restructuring needs through policies approved by the State Personnel Commission (SPC). The SPC policy shall detail the following:

- (1) The approach to be used in identifying the organizational units.
- (2) The process for identifying employees who may volunteer.
- (3) The availability of severance and other related assistance.

SECTION 8.3. Notwithstanding any other provision of law to the contrary, if RTR is deployed and not enough employees volunteer, then selections for reductions-in-force from the current incumbent employees are authorized based upon skills and qualifications for the positions needed by the organizational unit. Employees separated from employment in a reduction-in-force conducted as part of the RTR shall be paid severance in accordance with the SPC approved policy. The positions retained by the executive branch may be repurposed.

SECTION 8.4. This Part is effective when it becomes law and expires December 31, 2014.

PART IX. RENAMING/STATE HUMAN RESOURCES COMMISSION AND OFFICE OF STATE HUMAN RESOURCES

SECTION 9.1.(a) Chapter 126 of the General Statutes, the State Personnel Act, is hereby renamed and may be cited as the "North Carolina Human Resources Act."

SECTION 9.1.(b) The following entities and positions created by Chapter 126 of the General Statutes are hereby renamed by this act:

- (1) The State Personnel Commission is renamed the "North Carolina Human Resources Commission."
- (2) The Office of State Personnel is renamed the "North Carolina Office of State Human Resources."
- (3) The State Personnel Director is renamed the "Director of the North Carolina Office of State Human Resources."

SECTION 9.1.(c) Modification of References. – The Revisor of Statutes shall delete any references in the General Statutes to the State Personnel Act, State Personnel Commission, the State Personnel Director, and the Office of State Personnel (or any derivatives thereof) and substitute references to the North Carolina Human Resources Act, the State Human Resources Commission, the Director of the Office of State Human Resources, and the Office of Human Resources (or the appropriate derivative thereof) to effectuate the renaming set forth in this section wherever conforming changes are necessary. The affected statutes may include, but are not limited to, the statutes tabulated below:

– Referring to the State Personnel Act:

- | | |
|------------------|--|
| 1. G.S. 7A-171 | Duty hours, salary, and travel expenses within county. |
| 2. G.S. 7A-751 | Agency head; powers and duties; salaries of Chief Administrative Law Judge and other administrative law judges. |
| 3. G.S. 7A-760 | Number and status of employees; staff assignments; role of State Personnel Commission. |
| 4. G.S. 18C-120 | Selection of the Director; powers and duties. |
| 5. G.S. 18C-173 | Limits on compensation increases. |
| 6. G.S. 58-2-10 | Salary of Commissioner. |
| 7. G.S. 58-71-5 | Commissioner of Insurance to administer Article; rules and regulations; employees; evidence of Commissioner's actions. |
| 8. G.S. 58-86-15 | Director. |
| 9. G.S. 62-12 | Organization of Commission; adoption of rules and regulations therefor. |
| 10. G.S. 88B-6 | Board office, employees, funds, budget requirements. |

1	11. G.S. 90-270.4	Exemptions to this Article.
2	12. G.S. 95-2	Election of Commissioner; term; salary; vacancy.
3	13. G.S. 97-78	Salaries and expenses; administrator, executive secretary, deputy commissioners, and other staff assistance; annual report.
4		
5		
6	14. G.S. 106-11	Salary of Commissioner of Agriculture.
7	15. G.S. 113A-258	Clean Water Management Trust Fund: Executive Director and staff.
8		
9	16. G.S. 114-7	Salary of the Attorney General.
10	17. G.S. 115C-20	Office and salary.
11	18. G.S. 115D-5	Administration of institutions by State Board of Community Colleges; personnel exempt from State Personnel Act; extension courses; tuition waiver; in-plant training; contracting, etc., for establishment and operation of extension units of the community college system; use of existing public school facilities.
12		
13		
14		
15		
16		
17	19. G.S. 116-11	Powers and duties generally.
18	20. G.S. 116-30.4	Position management.
19	21. G.S. 120-36.1	Fiscal Research Division of Legislative Services Commission established.
20		
21	22. G.S. 120-79	Commission staffing.
22	23. G.S. 122A-4	North Carolina Housing Finance Agency.
23	24. G.S. 122D-5	Officers and employees; administration of Chapter.
24	25. G.S. 122E-4	North Carolina Housing Partnership created; compensation; organization.
25		
26	26. G.S. 126-1.1	Career State employee defined.
27	27. G.S. 126-2	State Personnel Commission.
28	28. G.S. 126-5	Employees subject to Chapter; exemptions.
29	29. G.S. 126-6.2	Reports.
30	30. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.
31		
32	31. G.S. 126-34.1	Grounds for contested case under the State Personnel Act defined.
33		
34	32. G.S. 126-35	Just cause; disciplinary actions for State employees.
35	33. G.S. 126-56	Status of employees of other governments.
36	34. G.S. 126-75	Work options for State employees.
37	35. G.S. 135-5.1	Optional retirement program for The University of North Carolina.
38		
39	36. G.S. 135-48.23	Executive Administrator.
40	37. G.S. 136-4	Chief Engineer.
41	38. G.S. 138-4	Governor to set salaries of administrative officers; exceptions; longevity pay.
42		
43	39. G.S. 138A-3	Definitions.
44	40. G.S. 140-5.15	Director of Museum of Art; appointment; dismissal; powers and duties; staff.
45		
46	41. G.S. 143-166.41	Special separation allowance.
47	42. G.S. 143-641	Powers and duties of the Commission.
48	43. G.S. 143A-9	Appointment of officers and employees; salaries of department heads.
49		
50	44. G.S. 143A-10	Governor; continuation of powers and duties; staff.
51	45. G.S. 143B-5	Governor; continuation of powers and duties.

1	46. G.S. 143B-9	Appointment of officers and employees.
2	47. G.S. 143B-10	Powers and duties of heads of principal departments.
3	48. G.S. 143B-74.2	U.S.S. North Carolina Battleship Commission –
4		employees.
5	49. G.S. 143B-131.9	Roanoke Island Commission staff.
6	50. G.S. 143B-146.7	Consequences for personnel at low-performing schools.
7	51. G.S. 143B-426.11	Powers of Agency.
8	52. G.S. 143B-426.38	Organization and operation of office.
9	53. G.S. 147-33	Compensation and expenses of Lieutenant Governor.
10	54. G.S. 147-33.76	Qualification, appointment, and duties of the State Chief
11		Information Officer.
12	55. G.S. 147-33.77	Office of Information Technology Services; organization
13		and operation.
14	56. G.S. 147-35	Salary of Secretary of State.
15	57. G.S. 147-64.1	Salary of State Auditor.
16	58. G.S. 147-64.10	Powers of appointment.
17	59. G.S. 147-65	Salary of State Treasurer.
18	60. G.S. 153A-77	Authority of boards of commissioners in certain counties
19		over commissions, boards, agencies, etc.
20	61. G.S. 153A-92	Compensation.
21		
22	– Referring to the State Personnel Commission:	
23	1. G.S. 7A-343.1	Distribution of copies of the appellate division reports.
24	2. G.S. 7A-760	Number and status of employees; staff assignments; role
25		of State Personnel Commission.
26	3. G.S. 20-187.3	Quotas prohibited.
27	4. G.S. 53C-2-3	The Office of the Commissioner of Banks.
28	5. G.S. 58-32-10	Powers and duties of Commission.
29	6. G.S. 90B-10	Exemption from certain requirements.
30	7. G.S. 96-29	Openings listed by State agencies.
31	8. G.S. 97-77	North Carolina Industrial Commission created; members
32		appointed by Governor; terms of office; chairman.
33	9. G.S. 108A-9	Duties and responsibilities.
34	10. G.S. 108A-12	Appointment.
35	11. G.S. 108A-13	Salary.
36	12. G.S. 108A-14	Duties and responsibilities.
37	13. G.S. 115C-12	Powers and duties of the Board generally.
38	14. G.S. 115C-12.2	Voluntary shared leave.
39	15. G.S. 115C-84.2	School calendar.
40	16. G.S. 115C-272	Residence, oath of office, and salary of superintendent.
41	17. G.S. 115C-285	Salary.
42	18. G.S. 115C-316	Salary and vacation.
43	19. G.S. 115D-25.3	Voluntary shared leave.
44	20. G.S. 120-123	Service by members of the General Assembly on certain
45		boards and commissions.
46	21. G.S. 122C-121	Area director.
47	22. G.S. 122C-154	Personnel.
48	23. G.S. 126-1	Purpose of Chapter; application to local employees.
49	24. G.S. 126-2	State Personnel Commission.
50	25. G.S. 126-4	Powers and duties of State Personnel Commission.
51	26. G.S. 126-5	Employees subject to Chapter; exemptions.

1	27. G.S. 126-6.2	Reports.
2	28. G.S. 126-7	Annual Compensation Survey.
3	29. G.S. 126-7.1	Posting requirement; State employees receive priority consideration; reduction-in-force; Work First hiring.
4		
5	30. G.S. 126-8	Minimum leave granted State employees.
6	31. G.S. 126-8.3	Voluntary shared leave.
7	32. G.S. 126-8.5	Discontinued service retirement allowance and severance wages for certain State employees.
8		
9	33. G.S. 126-9	County or municipal employees may be made subject to rules adopted by local governing body.
10		
11	34. G.S. 126-10	Personnel services to local governmental units.
12	35. G.S. 126-11	Local personnel system may be established; approval and monitoring; rules and regulations.
13		
14	36. G.S. 126-14.2	Political hirings limited.
15	37. G.S. 126-14.3	Open and fair competition.
16	38. G.S. 126-14.4	Remedies.
17	39. G.S. 126-19	Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.
18		
19	40. G.S. 126-23	Certain records to be kept by State agencies open to inspection.
20		
21	41. G.S. 126-25	Remedies of employee objecting to material in file.
22	42. G.S. 126-26	Rules and regulations.
23	43. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.
24		
25	44. G.S. 126-34.2	Alternative dispute resolution.
26	45. G.S. 126-35	Just cause; disciplinary actions for State employees.
27	46. G.S. 126-58	Administration.
28	47. G.S. 126-74	Work Options Program established.
29	48. G.S. 126-75	Work options for State employees.
30	49. G.S. 126-76	Promoting Work Options Program.
31	50. G.S. 126-77	Authority of agencies to participate.
32	51. G.S. 126-78	Administration.
33	52. G.S. 126-79	Report required.
34	53. G.S. 126-82	State Personnel Commission to provide for preference.
35	54. G.S. 138A-24	Contents of statement.
36	55. G.S. 143-27.2	Discontinued service retirement allowance and severance wages for certain State employees.
37		
38	56. G.S. 143-554	Right of employee appeal.
39	57. G.S. 143-583	Model program; technical assistance; reports.
40	58. G.S. 143-584	State agency safety and health committees.
41	59. G.S. 143B-10	Powers and duties of heads of principal departments.
42	60. G.S. 148-118.8	Appointment, salary, and authority of Executive Director and inmate grievance examiners.
43		
44	61. G.S. 150B-2	Definitions.
45		
46	– Referring to the State Personnel Director:	
47	1. G.S. 20-79.5	Special registration plates for elected and appointed State government officials.
48		
49	2. G.S. 95-127	Definitions.

1	3.	G.S. 126-3	Office of State Personnel established and responsibilities
2			outlined; administration and supervision; appointment,
3			compensation and tenure of Director.
4	4.	G.S. 126-4	Powers and duties of State Personnel Commission.
5	5.	G.S. 126-5	Employees subject to Chapter; exemptions.
6	6.	G.S. 126-8.5	Discontinued service retirement allowance and severance
7			wages for certain State employees.
8	7.	G.S. 126-9	County or municipal employees may be made subject to
9			rules adopted by local governing body.
10	8.	G.S. 126-19	Equal employment opportunity plans; reports;
11			maintenance of services by State Personnel Director.
12	9.	G.S. 126-74	Work Options Program established.
13	10.	G.S. 143-27.2	Discontinued service retirement allowance and severance
14			wages for certain State employees.
15	11.	G.S. 143-345.23	Suggestion and review process; role of agency
16			coordinator and agency evaluator.
17			
18	– Referring to the Office of State Personnel:		
19	1.	G.S. 7A-102	Assistant and deputy clerks; appointment; number;
20			salaries; duties.
21	2.	G.S. 7A-343.1	Distribution of copies of the appellate division reports.
22	3.	G.S. 15-203	Duties of the Secretary of Public Safety; appointment of
23			probation officers; reports; requests for extradition.
24	4.	G.S. 88B-6	Board office, employees, funds, budget requirements.
25	5.	G.S. 90B-10	Exemption from certain requirements.
26	6.	G.S. 116-14	President and staff.
27	7.	G.S. 116-30.1	Special responsibility constituent institutions.
28	8.	G.S. 116-30.4	Position management.
29	9.	G.S. 116-37	University of North Carolina Health Care System.
30	10.	G.S. 116-40.6	East Carolina University Medical Faculty Practice Plan.
31	11.	G.S. 122C-120.1	Job classifications; director and finance officer.
32	12.	G.S. 122C-121	Area director.
33	13.	G.S. 122C-154	Personnel.
34	14.	G.S. 126-1	Purpose of Chapter; application to local employees.
35	15.	G.S. 126-3	Office of State Personnel established and responsibilities
36			outlined; administration and supervision; appointment,
37			compensation and tenure of Director.
38	16.	G.S. 126-6.2	Reports.
39	17.	G.S. 126-7.1	Posting requirement; State employees receive priority
40			consideration; reduction-in-force; Work First hiring.
41	18.	G.S. 126-10	Personnel services to local governmental units.
42	19.	G.S. 126-11	Local personnel system may be established; approval and
43			monitoring; rules and regulations.
44	20.	G.S. 126-16.1	Equal employment opportunity training.
45	21.	G.S. 126-22	Personnel files not subject to inspection under § 132-6.
46	22.	G.S. 126-74	Work Options Program established.
47	23.	G.S. 128-15.3	Discrimination against handicapped prohibited in hiring;
48			recruitment, etc., of handicapped persons.
49	24.	G.S. 135-4	Creditable service.
50	25.	G.S. 138A-3	Definitions.
51	26.	G.S. 143-49	Powers and duties of Secretary.

- 1 27. G.S. 143-64.70 Personal service contracts – reporting requirements.
2 28. G.S. 143-215.107C State agency goals, plans, duties, and reports.
3 29. G.S. 143-345.21 State employee suggestion program.
4 30. G.S. 143-345.22 Allocation of suggestion program funds; nonmonetary
5 recognition.
6 31. G.S. 143-345.23 Suggestion and review process; role of agency
7 coordinator and agency evaluator.
8 32. G.S. 143-345.24 State Suggestion Review Committee.
9 33. G.S. 143-345.25 Innovations deemed property of the State; effect of
10 decisions regarding bonuses.
11 34. G.S. 143-583 Model program; technical assistance; reports.
12 35. G.S. 143B-10 Powers and duties of heads of principal departments.
13 36. G.S. 143B-53.2 Salaries, promotions, and leave of employees of the
14 North Carolina Department of Cultural Resources.
15 37. G.S. 143B-146.21 Policies, reports, and other miscellaneous provisions.
16 38. G.S. 143B-394.15 Commission established; purpose; membership;
17 transaction of business.
18 39. G.S. 143B-417 North Carolina Internship Council creation; powers and
19 duties.
20 40. G.S. 143B-806 Duties and powers of the Division of Juvenile Justice of
21 the Department of Public Safety.
22 41. G.S. 147-54.3 Land records management program.
23 42. G.S. 148-22.1 Educational facilities and programs for selected inmates.

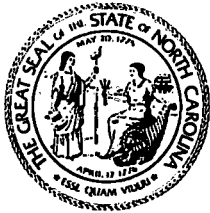
24 **SECTION 9.2.** No action or proceeding pending on the effective date of this
25 section, brought by or against the State Personnel Commission, the Director of the Office of
26 State Personnel, or the Office of State Personnel, shall be affected by any provision of this
27 section, but the same may be prosecuted or defended in the new name of the Commission,
28 Director, and Office. In these actions and proceedings, the renamed Commission, Director, or
29 Office shall be substituted as a party upon proper application to the courts or other public
30 bodies.

31 **SECTION 9.3.** Any business or other matter undertaken or commanded by the
32 former State Personnel Commission, State Personnel Director, or Office of State Personnel
33 regarding any State program, office, or contract or pertaining to or connected with their
34 respective functions, powers, obligations, and duties that are pending on the date this act
35 becomes effective may be conducted and completed by the Commission, Director, or Office in
36 the same manner and under the same terms and conditions and with the same effect as if
37 conducted and completed by the formerly named commission, director, or office.

38 **SECTION 9.4.** This Part is effective when it becomes law.
39

40 **PART X. EFFECTIVE DATE**

41 **SECTION 10.1.** Unless otherwise provided, this act is effective when it becomes
42 law.



HOUSE BILL 327: Fire and Rescue Pension Revisions of 2013.-AB

2013-2014 General Assembly

Committee:	Senate Ref to Pensions & Retirement and Aging. If fav, re-ref to Appropriations/Base Budget	Date:	June 21, 2013
Introduced by:	Reps. Howard, Elmore, Hager, Turner	Prepared by:	Theresa Matula Committee Staff
Analysis of:	PCS to Third Edition H327-CSSH-25		

SUMMARY: *House Bill 327 updates and modernizes a number of references in the Firemen's and Rescue Squad Worker's Pension Fund, establishes an advisory board for the Fund but transfers authority for the Fund to the Local Governmental Employees' Retirement System Board of Trustees, and prohibits a member from collecting benefits if convicted of certain felonies under certain situations.*

The PCS only corrects an incorrect statutory reference in Section 2(c).

[As introduced, this bill was identical to S304, as introduced by Sens. Meredith, Newton, which is currently in Senate Pensions & Retirement and Aging.]

CURRENT LAW:

Provisions for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund are provided in Article 86 of Chapter 58 of the General Statutes.

BILL ANALYSIS:

Section 1(a) amends Article 86 which currently provides for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. The title of the Article is changed from "Firemen's" to "Firefighters". Section 1(a) makes the changes outlined below.

§ 58-86-1 contains amendments changing "firemen" to "firefighters" which conforms to other changes throughout the bill. The amendments also include a technical change of "fire fighting" to one word, "firefighting".

§ 58-86-2 is a newly created definitions section providing definitions for the following terms: board, chair, director, eligible fire department, eligible firefighter, eligible rescue or emergency medical services squad, eligible rescue squad worker, fully credited service, inactive member, member, pension fund, training sessions for eligible rescue squad workers, and training sessions for eligible firefighters.

§ 58-86-5 which provided for a board of trustees is deleted and § 58-86-6 is created to provide for the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel. The advisory panel consists of the following seven persons:

- Director of the Retirement Systems Division, or designee, who shall act as chair;
- Designee of the State Insurance Commissioner;
- Five members to be appointed by the Board of Trustees of the Local Governmental Employees Retirement System (LGERS): one paid firefighter, one volunteer firefighter, one

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Director



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paid rescue squad worker, one volunteer rescue squad worker, and one member representing the public at large. These five members will serve four year terms.

Those serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms.

§ 58-86-10, 11, and 15 requires the NC Local Governmental Employees' Retirement System (LGERS) Board of Trustees to administer the Firefighters' and Rescue Squad Workers' Pension Fund. The advisory panel created in § 58-86-6 must meet at least annually, has no administrative authority, and is required to prepare an annual report to the LGERS Board of Trustees regarding the status and needs of the Pension Fund. § 58-86-15 which provided for a Director of the Pension Fund, is deleted.

§ 58-86-25 is amended to provide that "eligible firefighters" as defined in § 58-86-2(5) must attend 36 hours of training sessions in each calendar year as determined and reported by each eligible fire department to the NC State Firemen's Association. The Association must provide the list to the State Treasurer by January 31 of each year. An eligible firefighter may not also qualify as an "eligible rescue squad worker" in order to receive double benefits.

§ 58-86-30 makes amendments for "eligible rescue squad worker" similar to those made in §58-86-25.

§ 58-86-35 and 40 provide that firefighters and rescue squad workers who are members of the fund must pay \$10 per month and that each payment must be made no later than March 31 subsequent to the end of the calendar year in which the month occurred. The amendments specify that the fund shall not award fully credited service based on payments received later than March 31, except as provided in § 58-86-45 (a1) when purchasing credit.

§ 58-86-45 changes include a deletion of subsection (a) which allowed an eligible individual that had not elected membership to make application on or before March 31, 2001. Provides that lump sum payments to purchase service not otherwise creditable applies, among other things, to all purchases of service credits for months when timely payments were not made pursuant to G.S. 58-86-35 or G.S. 58-86-40. Subsection (b) is amended to specify that the board must receive advice from an actuary when setting the annual rate of interest for retroactive payments.

§ 58-86-55 makes conforming changes to "firefighter" and makes another gender neutral language change.

§ 58-86-60 makes conforming changes to "firefighter" and changes "Widow" to "surviving spouse". The amendments allow the board to make a lump sum payment of all moneys without accumulated earnings on the payments after the time they were made to any member who withdraws from the fund. (Previously the member had to have five or more years of contributing service.) Also specifies that a member may not purchase time for which he or she has received a refund.

§ 58-86-75 and 80 contain conforming changes. **§ 58-86-91** which allowed deductions for certain employee or retiree associations is deleted.

§ 58-86-95 allows a member who resigns to withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence due to active military service or other reasons.

Sections 1(b), (c), (d), (e) and (f) of the bill make the gender neutral conforming change to reference "firefighters" in various sections of the General Statutes that pertain to the Fund.

House PCS 327

Page 3

Section 2(a) adds a new section to the Pension Fund related to forfeiture of benefits for certain felonies. The new section is similar to S. L. 2012-193 (House Bill 153) which prohibits public retirement for convicted felons under certain situations. This new statutory section, G.S. 58-86-100, prohibits the Board from paying retirement benefits or allowances, except for a return of member contributions, to any member convicted of a felony under federal law or the laws of the State if:

1. The offense is committed while the member is not yet 55 years of age or has not received 30 years of fully credited service, or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant.
2. The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad workers and brings disrepute on a fire department or rescue squad.

Section 2(b) makes a conforming change to G.S. 15A-1340.16(d) to add to the list of aggravating factors under structured sentencing, a defendant who is a firefighter or rescue squad worker and commits an offense directly related to services as a firefighter or rescue squad worker.

Section 2(c) further amends § 58-86-95 to add a subsection which conforms to the changes in Section 1(a) pertaining to forfeiture of benefits when convicted of an offense listed in G.S. 58-86-100.

Section 3 conforms the forfeiture provisions in this bill to Section 17 contained in S.L. 2012-193. This section directs the State Treasurer to enter into a memorandum of agreement with the U.S. Attorneys of the Eastern, Middle and Western Districts to provide a procedure for notifying the Treasurer of convictions of federal law that would trigger loss of retirement benefits if prosecuted under State law.

EFFECTIVE DATE: Section 2 of House Bill 327, containing the benefit forfeiture provisions, becomes effective December 1, 2013 and applies to offenses committed on or after that date. The remainder of the bill would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

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HOUSE BILL 327
Committee Substitute Favorable 4/18/13
Committee Substitute #2 Favorable 4/30/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H327-CSSH-25 [v.2]

6/24/2013 3:33:08 PM

Short Title: Fire and Rescue Pension Revisions of 2013.-AB

(Public)

Sponsors:

Referred to:

March 19, 2013

A BILL TO BE ENTITLED

AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL, TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND RESCUE SQUAD WORKERS' ADVISORY PANEL, TO PROHIBIT CERTAIN FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as rewritten:

"Article 86.

"North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

"§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.

For the purpose of furthering the general welfare and police powers and obligations of the State with respect to the protection of all its citizens from the consequences of loss or damage by fire and of injury by serious accident or illness, of increasing the protection of life and property against loss or damage by fire, of improving ~~fire fighting~~ firefighting and life saving techniques, of increasing the potential of fire departments, rescue squads, organizations and groups, of fostering increased and more widely spread training of personnel of these organizations and groups, and of providing incentive and inducement to participate in fire prevention, ~~fire fighting~~ firefighting and rescue squad activities and for the establishment of new, improved or extended fire departments, rescue squads, organizations and groups to the end that ultimately all areas of the State and all of its citizens will receive the benefits of fire protection and rescue squads' activity and a resulting reduction of loss or damage to life and property by fire hazard or injury by serious accident or illness, and in recognition of the public service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~ firefighters and rescue squad workers," as defined by this Article, there is created in this State a fund to be



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known, and designated as "The North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.

The North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible ~~firemen-firefighters~~ and rescue squad workers in the State who elect to become members of the fund. The board of trustees created by this Article shall have authority to administer the fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"§ 58-86-2. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Board" means the Board of Trustees of the Local Governmental Employees' Retirement System.
- (2) "Chair" means the chair of the Board of Trustees of the Local Governmental Employees' Retirement System.
- (3) "Director" means the Director of the Retirement Systems Division of the North Carolina Department of State Treasurer. The Director shall promptly transmit to the State Treasurer all moneys collected on behalf of members, which moneys shall be deposited by the State Treasurer into the fund.
- (4) "Eligible fire department" means a bona fide fire department which is certified to the Commissioner of Insurance by the governing body thereof, and determined as classified as not less than class "9S," and said fire department holds training sessions not less than four hours monthly.
- (5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.
- (6) "Eligible rescue or emergency medical services squad" means organized rescue squad units eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc.
- (7) "Eligible rescue squad worker" means all persons 18 years of age or older who are members of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also mean those persons meeting the other qualifications of this Article.
- (8) "Fully credited service" means a period of time for which the Board has received certification that a member has met all eligibility requirements for participation in the Pension Fund and for which the Board has received timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may purchase fully credited service for any period of service as set forth in G.S. 58-86-45.
- (9) "Inactive member" means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is not making timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40.

(10) "Member" means an eligible firefighter or eligible rescue squad worker who has elected to participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

(13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

~~"§ 58-86-5. Creation and membership of board of trustees; compensation.~~

~~There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

~~The board shall consist of six members:~~

~~(1) The State Treasurer, who shall act as chairman.~~

~~(2) The State Insurance Commissioner.~~

~~(3) Repealed by Session Laws 1993, c. 9.~~

~~(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

"§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

(1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.

(2) A designee of the State Insurance Commissioner.

(3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees' Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees' Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees' Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the

1 expiration of their current terms. No member of the advisory panel shall receive any salary,
2 compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at
3 duly and regularly called and held meetings of the advisory panel.

4 **"§ 58-86-10. Powers and duties of the board.**

5 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
6 System shall administer the Pension Fund. The board shall request appropriations out of the
7 general fund for administrative expenses and to provide for the financing of this pension fund.
8 employ necessary clerical assistance, determine all applications for pensions, provide for the
9 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
10 government governance of this fund, prescribe rules and regulations of eligibility of persons to
11 receive pensions, expend funds in accordance with the provisions of this Article, and generally
12 exercise all other powers necessary for the administration of the fund created by this Article.

13 **"§ 58-86-11. Powers and duties of the advisory panel.**

14 The advisory panel shall meet at least once annually upon call of the chair. The advisory
15 panel shall have no administrative authority but shall prepare an annual report to the Board of
16 Trustees of the North Carolina Local Governmental Employees' Retirement System regarding
17 the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension
18 Fund.

19 **"§ 58-86-15. Director.**

20 ~~There is created an office to be known as Director of the North Carolina Firemen's and~~
21 ~~Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its~~
22 ~~pleasure. The director shall be subject to the provisions of the State Personnel Act. The director~~
23 ~~shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall~~
24 ~~be deposited by the State Treasurer into the fund.~~

25 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
26 **fund; expenditures.**

27 ~~The State Treasurer shall be the custodian of the North Carolina Firemen's Firefighters' and~~
28 ~~Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the~~
29 ~~provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General~~
30 ~~Assembly out of the general fund to provide money for administrative expenses shall be~~
31 ~~handled in the same manner as any other general fund appropriation. One-fourth of the~~
32 ~~appropriation made out of the general fund to provide for the financing of the pension fund~~
33 ~~shall be transferred quarterly to a special fund to be known as the North Carolina Firemen's~~
34 ~~Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State~~
35 ~~Treasurer's office a special fund to be known as the North Carolina Firemen's Firefighters' and~~
36 ~~Rescue Squad Workers' Pension Fund, and all contributions made by the members of this~~
37 ~~pension fund shall be deposited in the special fund. All expenditures for refunds, investments or~~
38 ~~benefits shall be in the same manner as expenditures of other special funds.~~

39 **"§ 58-86-25. "Eligible firemen" defined; determination and certification**
40 **of volunteers meeting qualifications, eligible firefighters.**

41 ~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political~~
42 ~~subdivision thereof, including those performing such functions in the protection of life and~~
43 ~~property through fire fighting within a county or city governmental unit and so certified to the~~
44 ~~Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire~~
45 ~~department which, as determined by the Commissioner, is classified as not less than class "9"~~
46 ~~or class "A" and "AA" departments in accordance with rating methods, schedules,~~
47 ~~classifications, underwriting rules, bylaws or regulations effective or applied with respect to the~~
48 ~~establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter~~
49 ~~or by such other reasonable methods as the Commissioner may determine, and which operates~~
50 ~~fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said~~
51 ~~fire department holds drills and meetings not less than four hours monthly and said firemen~~

attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, provided the board of county commissioners of that county certifies the employee's attendance at no less than 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one additional volunteer fireman per 100 population in the area served by their respective departments. Eligible firefighters must attend 36 hours of training sessions in each calendar year. Each eligible fire department shall annually determine and report the names of those firemen-firefighters meeting the eligibility qualifications of this section Article to its respective governing body, which upon determination of the validity and accuracy of the qualification shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's Association shall provide a list of those persons meeting the eligibility requirements of this section Article to the State Treasurer by January 31 of each year. For the purposes of the preceding sentence, the governing body of a fire department operated: by a county is the county board of commissioners; by a city is the city council; by a sanitary district is the sanitary district board; by a corporation, whether profit or nonprofit, is the corporation's board of directors; and by any other entity is that group designated by the board. An "eligible firefighter" may not also qualify as an "eligible rescue squad worker" in order to receive double benefits available under this Article.

"§ 58-86-30. "Eligible rescue squad worker" defined; determination-Determination and certification of eligibility. "eligible rescue squad worker."

"Eligible rescue squad worker" means a person who is a member of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., and who has attended a minimum of Eligible rescue squad workers must attend at least 36 hours of training and meetings in the last sessions in each calendar year. Each rescue or emergency medical services squad eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc., must file a roster certified by the secretary of the association of those rescue or emergency medical services squad workers meeting the requirements of this section with the State Treasurer by January 31 of each calendar year.

"Eligible rescue squad worker" does not mean "eligible fireman" as defined by G.S. 58-86-25, nor may an An "eligible rescue squad worker" may not qualify also as an "eligible fireman"-firefighter in order to receive double benefits available under this Article.

"§ 58-86-35. Firemen's-Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those firemen-firefighters who are eligible pursuant to G.S. 58-86-25 may make application for membership to the board. apply to the board for membership. Each fireman firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no later than 90 days after March 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at anytime-any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member.

1 "§ 58-86-40. Rescue squad worker's application for membership in funds; monthly
2 payments by members; payments credited to separate accounts of members;
3 termination of membership.

4 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for
5 membership. Each eligible rescue squad worker upon becoming a member shall pay the
6 director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no
7 later than ~~90 days after March 31~~ subsequent to the end of the calendar year in which the month
8 occurred. The Pension Fund shall not award fully credited service based on payments received
9 later than March 31 subsequent to the end of the calendar year in which the month occurred
10 unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be
11 credited to the separate account of the member and shall be kept by the custodian so it is
12 available for payment on withdrawal from membership or retirement.

13 A member may elect to terminate membership in the fund at ~~anytime~~ any time and request
14 the refund of payments previously made to the fund. However, a member's delinquency in
15 making the monthly payments required by this section does not result in the termination of
16 membership without such an election by the member.

17 "§ 58-86-45. Additional retroactive membership.

18 (a) ~~Any fireman or rescue squad worker who is now eligible and is a member of a fire~~
19 ~~department or rescue squad chartered by the State of North Carolina and who has not~~
20 ~~previously elected to become a member may make application through the board of trustees for~~
21 ~~membership in the fund on or before March 31, 2001. The person shall make a lump sum~~
22 ~~payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to~~
23 ~~become a member, plus interest at an annual rate of eight percent (8%), for each year of his~~
24 ~~retroactive payments. Upon making the lump sum payment, the person shall be given credit for~~
25 ~~all prior service in the same manner as if he had made application for membership at the time~~
26 ~~he first became eligible. Any member who made application for membership subsequent to the~~
27 ~~time he was first eligible and did not receive credit for prior service may receive credit for this~~
28 ~~prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the~~
29 ~~time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year~~
30 ~~of his retroactive payments. Upon making this lump sum payment, the date of membership~~
31 ~~shall be the same as if he had made application for membership at the time he was first eligible.~~
32 ~~Any fireman or rescue squad worker who has applied for prior service under this subsection~~
33 ~~shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by~~
34 ~~June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1)~~
35 ~~of this section.~~

36 (a1) ~~Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a
37 current or former member of a fire department or rescue squad chartered by the State of North
38 Carolina may purchase credit for any periods of service to any chartered fire department or
39 rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings
40 Fund equal to the full liability of the service credits calculated on the basis of the assumptions
41 used for purposes of the actuarial valuation of the system's liabilities, which payment shall take
42 into account the retirement allowance arising on account of the additional service credit
43 commencing at the earliest age at which the member could retire on a retirement allowance, as
44 determined by the board of trustees upon the advice of the consulting actuary, plus an
45 administrative fee to be set by the board of trustees. This provision for the payment of a lump
46 sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service
47 credits for months as to which timely payments were not previously made pursuant to
48 G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

49 (b) An eligible ~~fireman~~ firefighter or rescue squad worker who is not yet 35 years old
50 may apply to the board of trustees for membership in the fund at any time. Upon becoming a
51 member, the worker may make a lump sum payment of ten dollars (\$10.00) per month

1 retroactively to the time the worker first became eligible to become a member, plus interest at
2 an annual rate to be set by the board upon advice from actuary for each year of retroactive
3 payments. Upon making this lump sum payment, the worker shall be given credit for all prior
4 service in the same manner as if the worker had applied for membership upon first becoming
5 eligible.

6 A member who is not yet 35 years old may receive credit for the prior service upon making
7 a lump sum payment of ten dollars (\$10.00) for each month since the worker first became
8 eligible, plus interest at an annual rate to be set by the board for each year of retroactive
9 payments. Upon making this lump sum payment, the date of membership shall be the same as if
10 the worker had applied for membership upon first becoming eligible.

11 **"§ 58-86-55. Monthly pensions upon retirement.**

12 Any member who has served 20 years as an "eligible ~~fireman~~-firefighter" or "eligible
13 rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
14 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
15 pension from this fund. The monthly pension shall be in the amount of one hundred seventy
16 dollars (\$170.00) per month. Any retired ~~fireman~~-firefighter receiving a pension shall, effective
17 July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

18 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
19 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall
20 receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder
21 until the member's official duties as a fireman or rescue squad worker for which the member is
22 paid compensation shall have been terminated and the member shall have retired as such
23 according to standards or rules fixed by the board of trustees.

24 A member who is totally and permanently disabled while in the discharge of the member's
25 official duties as a result of bodily injuries sustained or as a result of extreme exercise or
26 extreme activity experienced in the course and scope of those official duties and who leaves the
27 fire or rescue squad service because of this disability shall be entitled to be paid from the fund a
28 monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning
29 the first month after the member's fifty-fifth birthday. All applications for disability are subject
30 to the approval of the board who may appoint physicians to examine and evaluate the disabled
31 member prior to approval of the application, and annually thereafter. Any disabled member
32 shall not be required to make the monthly payment of ten dollars (\$10.00) as required by
33 G.S. 58-86-35 and G.S. 58-86-40.

34 A member who is totally and permanently disabled for any cause, other than line of duty,
35 who leaves the fire or rescue squad service because of this disability and who has at least 10
36 years of service with the pension fund, may be permitted to continue making a monthly
37 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
38 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
39 a pension as provided by this section. All applications for disability are subject to the approval
40 of the board who may appoint physicians to examine and evaluate the disabled member prior to
41 approval of the application and annually thereafter.

42 A member who, because ~~his~~-the member's residence is annexed by a city under Part 2 or
43 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
44 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
45 General Statutes, or whose volunteer department is taken over by a city or county, and because
46 of such annexation or takeover is unable to perform as a ~~fireman~~-firefighter or rescue squad
47 worker of any status, and if the member has at least 10 years of service with the pension fund,
48 may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund
49 until the member has made contributions for a total of 240 months. The member upon attaining
50 the age of 55 years and completion of such contributions shall be entitled to receive a pension
51 as provided by this section. Any application to make monthly contributions under this section

1 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
2 member.

3 The pensions provided shall be in addition to all other pensions or benefits under any other
4 statutes of the State of North Carolina or the United States, notwithstanding any exclusionary
5 provisions of other pensions or retirement systems provided by law.

6 **"§ 58-86-60. Payments in lump sums.**

7 The board shall direct payment in lump sums from the fund in the following cases:

- 8 (1) To any ~~fireman~~firefighter or rescue squad worker upon the attaining of the
9 age of 55 years, who, for any reason, is not qualified to receive the monthly
10 retirement pension and who was enrolled as a member of the fund, an
11 amount equal to the amount paid into the fund by him. This provision shall
12 not be construed to preclude any active ~~fireman~~firefighter or rescue squad
13 worker from completing the requisite number of years of active service after
14 attaining the age of 55 years necessary to entitle ~~him~~the firefighter or rescue
15 squad worker to the pension.
- 16 (2) If any ~~fireman~~firefighter or rescue squad worker dies before attaining the
17 age at which a pension is payable to ~~him~~the firefighter or rescue squad
18 worker under the provisions of this Article, there shall be paid to his ~~widow~~,
19 or her surviving spouse, or if there be no ~~widow~~, surviving spouse, to the
20 person responsible for his or her child or children, or if there be no ~~widow~~
21 surviving spouse or children, then to his or her heirs at law as may be
22 determined by the board or to his or her estate, if it is administered and there
23 are no heirs, an amount equal to the amount paid into the member's separate
24 account by or on behalf of the said ~~fireman~~firefighter or rescue squad
25 worker.
- 26 (3) If any ~~fireman~~firefighter or rescue squad worker dies after beginning to
27 receive the pension payable to ~~him~~the firefighter or rescue squad worker by
28 this Article, and before receiving an amount equal to the amount paid into
29 the fund by ~~him~~, him or her, there shall be paid to his ~~widow~~, or her
30 surviving spouse, or if there be no ~~widow~~, surviving spouse, then to the
31 person responsible for his or her child or children, or if there be no ~~widow~~
32 surviving spouse or children, then to his or her heirs at law as may be
33 determined by the board or to his or her estate, if it is administered and there
34 are no heirs, an amount equal to the difference between the amount paid into
35 the member's separate account by or on behalf of the said ~~fireman~~firefighter
36 or rescue squad worker and the amount received by him or her as a
37 pensioner.
- 38 (4) Any member ~~with five or more years of contributing service and~~ who
39 withdraws from the fund shall, upon proper application, be paid all moneys
40 without accumulated earnings on the payments after the time they were
41 made. ~~If any member who has less than five years of contributing service~~
42 ~~made contributions, or any person, firm, corporation, or other entity has~~
43 ~~made contributions on behalf of that member and that member withdraws~~
44 ~~from the fund, the member, person, firm, corporation, or other entity shall be~~
45 ~~entitled to a refund equal to the amount of contributions made by them after~~
46 ~~the Board has been notified of the contributor's desire to be refunded its~~
47 ~~contributions upon the member's withdrawal. A member may not purchase~~
48 time under G.S. 58-86-45 for which he or she has received a refund.

49 **"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

50 If, for any reason, the fund created and made available for any purpose covered by this
51 Article shall be insufficient to pay in full any pension benefits, or other charges, then all

benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

"§ 58-86-70. Provisions subject to future legislative change.

These pensions shall be subject to future legislative change or revision, and no member of the fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ 58-86-75. Determination of creditable service; information furnished by applicants for membership.

The board shall determine by appropriate rules and regulations the number of years' credit for service of ~~firemen~~-firefighters and rescue squad workers. ~~Firemen~~-Firefighters and rescue squad workers who are now serving as such shall furnish the board with information upon applying for membership as to previous service. Notwithstanding any other provisions of this Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad workers under such terms and conditions that the Board may adopt when the Board determines that an eligible ~~fireman~~-firefighter or rescue squad worker has been denied such service credits through no fault of his or her own.

"§ 58-86-80. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.

A ~~fireman's~~-firefighter's or rescue squad worker's length of service shall not be affected by the fact that he or she may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the board.

"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments or judgments against the ~~fireman~~-firefighter or rescue squad worker entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations allowed.~~

~~Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.~~

"§ 58-86-95. Leaves of absence; inactive membership.

(a) Any member who resigns as an eligible firefighter or an eligible rescue squad worker, whichever is applicable, may withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence as provided by G.S. 58-86-95, or he or she will be considered an inactive member.

(b) In order to take a leave of absence, any member not on active military service must provide the office of the director with written notice that the member is taking a leave of absence. Any member not on active military service on leave of absence for more than five years in any six-year period shall be considered an inactive member.

(c) A member is not eligible for service credit for the time he or she is on leave of absence and is not required to make monthly payments for that time. During the time a member is on leave of absence he or she is not eligible for benefits from the pension fund. A member who has taken a leave of absence may subsequently withdraw from the pension fund and seek a

refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the appropriate person or persons may seek a refund under G.S. 58-86-60.

(d) Any member not on active military service who does not make contributions for two consecutive years and has not taken a leave of absence shall be considered an inactive member.

(e) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad, and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

...
(4) North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).
...."

SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...
(6) The ~~Firemen's-Firefighters'~~ and Rescue Workers' Pension Fund.
...

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on

investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

...

(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina

1 National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems)
2 as follows:

- 3 (1) Solely in the interest of the participants and beneficiaries.
- 4 (2) For the exclusive purpose of providing benefits to participants and
5 beneficiaries and paying reasonable expenses of administering the
6 Retirement Systems.
- 7 (3) With the care, skill, and caution under the circumstances then prevailing
8 which a prudent person acting in a like capacity and familiar with those
9 matters would use in the conduct of an activity of like character and purpose.
- 10 (4) Impartially, taking into account any differing interests of participants and
11 beneficiaries.
- 12 (5) Incurring only costs that are appropriate and reasonable.
- 13 (6) In accordance with a good-faith interpretation of the law governing the
14 Retirement Systems."

15 **SECTION 1.(f)** G.S. 147-69.8 reads as rewritten:

16 **"§ 147-69.8. Annual report on new investment authority.**

17 Whenever the General Assembly broadens the investment authority of the State Treasurer
18 as to the General Fund, the Teachers' and State Employees' Retirement System, the
19 Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad
20 Workers' Pension Fund, the Local Governmental Employees' Retirement System, the
21 Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle
22 funds, the State Treasurer shall annually report in detail to the General Assembly the
23 investments made under such new authority, including the returns on those investments,
24 earnings, changes to value, and gains and losses in disposition of such investments. The report
25 shall be made during the first six months of each calendar year, covering performance in the
26 prior calendar year. As to each type of new investment authority, the report shall be made for at
27 least four years."

28 **SECTION 2.(a)** Article 86 of Chapter 58 of the General Statutes is amended by
29 adding a new section to read:

30 **"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring**
31 **disrepute on a fire department or rescue squad.**

32 (a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any
33 retirement benefits or allowances, except for a return of member contributions, to any member
34 who is convicted of any felony under federal law or the laws of this State if all of the following
35 apply:

- 36 (1) The offense is committed while the member is not yet 55 years of age or has
37 not yet received 20 years of fully credited service or while the member is 55
38 years of age or older and has 20 years of fully credited service but is still
39 serving as a participant in an eligible fire department or eligible rescue
40 squad.
- 41 (2) The conduct resulting in the member's conviction is directly related to
42 service as a firefighter or rescue squad worker and brings disrepute on a fire
43 department or rescue squad.

44 (b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions
45 where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal
46 procedure that the offense is directly related to service as a firefighter or rescue squad worker.

47 (c) If a member or former member whose benefits under the System were forfeited
48 under this section, except for the return of member contributions, subsequently receives an
49 unconditional pardon of innocence or the conviction is vacated or set aside for any reason, then
50 the member or former member may seek a reversal of the benefit forfeiture by presenting
51 sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the

1 benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all
2 accumulated contributions. Repayment of all accumulated contributions that have been
3 received by the individual under the forfeiture provisions of this section must be made in a total
4 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
5 reinstatement of the service credit forfeited."

6 **SECTION 2.(b)** G.S. 15A-1340.16(d) is amended by adding a new subdivision to
7 read:

8 "(9a) The defendant is a firefighter or rescue squad worker, and the offense is
9 directly related to service as a firefighter or rescue squad worker."

10 **SECTION 2.(c)** G.S. 58-86-95, as enacted by Section 1 of this act, reads as
11 rewritten:

12 **"§ 58-86-95. Leaves of absence; inactive ~~membership~~-membership; felony forfeiture.**

13 ...

14 **(h)** If a member who is in service and has not received 20 years of fully credited service
15 in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for
16 acts committed after December 1, 2013, then that member shall forfeit all benefits under this
17 System, except for a return of member contributions. If a member who is in service and has not
18 received 20 years of fully credited service in this System on December 1, 2013, is convicted of
19 an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that
20 member is not entitled to any fully credited service that accrued after December 1, 2013."

21 **SECTION 3.** S.L. 2012-193, Section 17, reads as rewritten:

22 **"SECTION 17.** The State Treasurer shall negotiate a memorandum of agreement with the
23 United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina
24 whereby the prosecutors will notify the State Treasurer of convictions under
25 G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and 135-5.1(h),~~
26 ~~135-5.4(h), and 58-86-100(b).~~~~135-5.4(h)."~~

27 **SECTION 4.** Section 2 of this act becomes effective December 1, 2013, and
28 applies to offenses committed on or after that date. The remainder of this act becomes effective
29 July 1, 2013.



HOUSE BILL 357: Retirement Governance Changes Act of 2013.-

2013-2014 General Assembly **AB**

Committee:	Senate Pensions & Retirement and Aging	Date:	June 25, 2013
Introduced by:	Reps. Moffitt, Howard, W. Brawley, Collins	Prepared by:	Theresa Matula
Analysis of:	PCS to Second Edition H357-CSLL-22		Committee Staff

SUMMARY: *House Bill 357 specifies the following: the Supplemental Retirement Board shall administer the North Carolina Public School Teachers' and Professional Educators' Investment Plan; the Board of Trustees of the Local Governmental Employees' Retirement System (LGERS) shall administer the Register of Deeds' Supplemental Pension Fund; the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS) shall administer the NC National Guard Pension; the Board of Trustees for the TSERS shall administer the Legislative Retirement System without direction from the Legislative Services Commission; the bill also adds an immunity section for the Supplemental Retirement Board of Trustees; and makes changes to the membership of the LGERS and TSERS Board of Trustees.*

The PCS corrects Section 4(b), makes technical changes in Section 5, and makes other technical corrections in the bill.

BILL ANALYSIS:

Section 1 of House Bill 357 amends G.S. 135-96 by adding responsibility for the North Carolina Public School Teachers' and Professional Educators' Investment Plan to the Supplemental Retirement Board of Trustees. It further authorizes the Board to retain the services of personnel possessing the specialized skills or knowledge necessary for the administration of programs by the Board. (The North Carolina Public School Teachers' and Professional Educators' Investment Plan was created in G.S. 115C-341.2 by S.L. 2011-310 (HB 730).)

Section 2 of the bill amends G.S. 161-50.1 to provide that the Board of Trustees of the Local Governmental Employees' Retirement System (LGERS), rather than the Department of State Treasurer, is responsible for administering the Register of Deeds' Supplemental Pension Fund Act of 1987.

Section 3 amends G.S. 127A-40 to provide that the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS), rather than the State Treasurer, will administer the provisions of the North Carolina National Guard Pension.

Section 4(a) amends G.S. 135-6(b) to decrease the Board of Trustees for the TSERS from 14 members to 13 members. Specific changes are made to the nine appointments made by the Governor and confirmed by the Senate including: decreasing from three to two the number of members who are not members of the teaching profession or State employees; removing a requirement that one of the members be an employee of the Board of Transportation appointed by the Governor; and adding a requirement that one member be an active or retired member of the NC National Guard appointed for a term of four years commencing July 1, 2013.

Section 4(b) amends G.S. 128-28(c) pertaining to the Board of Trustees of the LGERS by decreasing from seven to five the members of the TSERS Board that serve and by adding an active or retired

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House PCS 357

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member of the Firemen's and Rescue Squad Workers' Pension Fund designated by the Governor, which decreases the membership from 14 to 13.

Section 5 adds a new section, G.S. 135-97, to Article 5, Chapter 135, which pertains to Supplemental Retirement Income. The new section provides certain immunity for a person serving on the Supplemental Retirement Board of Trustees. Under the provision, a trustee is immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of service except when the person:

- was not acting within the scope of official duties;
- was not acting in good faith;
- committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- derived a direct or indirect improper personal financial benefit from the transaction;
- incurred the liability from the operation of a motor vehicle.

Section 6 amends G.S. 120-4.9 to provide that all direction and policies concerning the Legislative Retirement System is vested in the TSERS Board of Trustees, rather than the Legislative Services Commission.

Section 7 makes an amendment in G. S. 120-4.10 that conforms with the changes in Section 6 by removing references to the Legislative Services Commission and providing that the Board of Trustees of the TSERS has oversight for the Legislative Retirement System.

EFFECTIVE DATE: House Bill 357 would become effective July 1, 2013.



HOUSE BILL 347: Amend Greensboro Fire Retirement/Charter

2013-2014 General Assembly

Committee:	Senate Pensions & Retirement and Aging	Date:	June 20, 2013
Introduced by:	Reps. Faircloth, Adams, Hardister, Harrison	Prepared by:	Theresa Matula
Analysis of:	PCS to First Edition H347-CSSH-22		Committee Staff

SUMMARY: *House Bill 347 would place responsibility for administration and operation of the Greensboro Firemen's Supplemental Retirement System with the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro and deletes the provisions for the Supplemental Board of Trustees. The bill also replaces references to "firemen" with "firefighters" which changes the name of the system to the Greensboro Firefighters' Supplemental Retirement System.*

The PCS adds Sections 2 and 3 to amend the Greensboro City Charter to change certain references from "building inspector" to "compliance officer".

CURRENT LAW:

Greensboro Fireman's Supplemental Retirement System - The City of Greensboro Fireman's Supplemental Retirement System is overseen by a five member Board of Trustees, two members elected from the Fire Department, two members appointed by the President of the Greensboro Fire Insurance Exchange, and one member of the City Council.

G.S. 58-84-25 provides direction to the Insurance Commissioner regarding the distribution to counties and fire districts of tax proceeds collected pursuant to the additional tax rate on property coverage contracts allowed under G.S. 105-228.5(d)(3).

G.S. 58-84-30 requires each county, town or city deriving these benefits to appoint a local Firefighters' Relief Fund board of trustees. The trustees hold office for their elected or appointed time, or until successors are elected or appointed and serve without pay. This board is composed of five members:

- two elected by the members of the local fire department, or departments, who must be qualified as beneficiaries of the fund, and serve a two year term;
- two are elected by the mayor and board of aldermen, or other local governing body, and serve a two year term; and
- one named by the Commissioner of Insurance that serves at the Commissioner's pleasure.

BILL ANALYSIS: Section 1 of House Bill 347 deletes the current law providing for a board of trustees for the Greensboro Fireman's Supplemental Retirement System and specifies that the general administration and responsibility for proper operation of the system be vested in the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro, as appointed under G.S. 58-84-30. Those supplemental retirement system Board of Trustees serving at the time of abolition will serve as ex officio, non-voting, members of the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro. The bill also replaces the term "Fireman" with "Firefighter" throughout the session law which also amends the title of the retirement system.

Sections 2 and 3 of the bill amend the Charter of the City of Greensboro to change references in the City Charter from "building inspector" to "compliance officer".

EFFECTIVE DATE: House Bill 347 would be effective when it becomes law.

Giles Perry, counsel to House Government, contributed to this summary.

O. Walker Reagan
Director



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 347
PROPOSED SENATE COMMITTEE SUBSTITUTE H347-CSSH-22 [v.2]

6/24/2013 3:40:04 PM

Short Title: Amend Greensboro Fire Retirement/Charter.

(Local)

Sponsors:

Referred to:

March 20, 2013

A BILL TO BE ENTITLED
AN ACT TO AMEND THE GREENSBORO FIREFIGHTERS' SUPPLEMENTAL
RETIREMENT SYSTEM AND TO AMEND THE CHARTER OF THE CITY OF
GREENSBORO TO CHANGE CERTAIN REFERENCES FROM BUILDING
INSPECTOR TO COMPLIANCE OFFICER.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 899 of the 1953 Session Laws, as amended by Chapter 289 of the 1979 Session Laws, Chapter 466 of the 1983 Session Laws, Chapter 178 of the 1987 Session Laws, and Chapter 431 of the 1993 Session Laws, reads as rewritten:

"Section 1. There is hereby created and established a supplemental retirement system for the members of the Fire Department of the City of Greensboro to be known as the 'Greensboro Firemen's-Firefighters' Supplemental Retirement System', hereinafter referred to in this Act as 'supplemental retirement system.' The purpose of the creation and establishment of the supplemental retirement system, as provided for in this Act, shall be to increase, augment and add to the benefits received by the firemen of the City of Greensboro who have already retired and who may hereafter retire and become eligible for benefits under the provisions of the North Carolina Local Governmental Employees' Retirement System in the sums and amounts hereinafter provided under this Act. Notwithstanding the provisions of G.S. 58-84-35, the board of trustees of the Firemen's-Firefighters' Relief Fund of the City of Greensboro, duly appointed under G.S. 58-84-30, shall pay over to the board of trustees of the Greensboro Firemen's Supplemental Retirement System into the Supplemental Retirement System on July 1 of each year all sums entrusted to the Relief Fund's board of trustees in excess of the sum of ten thousand dollars (\$10,000).

"Sec. 2. The general administration and responsibility for the proper operation of the supplemental retirement system herein created and established and for the carrying out and making effective the provisions of this Act are hereby vested in a board of trustees who shall be chosen and selected as follows: the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro, duly appointed under G.S. 58-84-30.

(a) ~~Two members of said board of trustees shall be chosen from the membership of the Greensboro Fire Department and shall be elected by a majority vote of the uniformed members of the Fire Department of the City of Greensboro; one of said members shall hold office for a period of one year, and the other member so appointed shall hold office for a period of two years; thereafter, each of said two members chosen from the Greensboro Fire Department shall be appointed for a term of office consisting of a period of two years each.~~

The members of the Board of Trustees of the Greensboro Firemen's Supplemental Retirement System serving upon the abolition of that Board shall serve as ex officio members



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1 ~~of the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro without~~
2 ~~privilege of voting on matters before that Board.~~

3 ~~(b) Two members shall be appointed by the President of the Greensboro Fire Insurance~~
4 ~~Exchange; one of said members shall hold office for a period of one year, the other member so~~
5 ~~appointed shall hold office for a period of two years; and thereafter, each of said members shall~~
6 ~~be appointed for a term of office consisting of a period of two years.~~

7 ~~(e) One member of said board of trustees is to be a member of the Greensboro City~~
8 ~~Council and shall be elected for a term of two years by a majority vote of the City Council of~~
9 ~~the City of Greensboro.~~

10 ~~All members of the board of trustees shall be elected or appointed as specified in Section 2~~
11 ~~(a), (b) and (c) prior to the third Tuesday in May. They shall take office on the third Tuesday in~~
12 ~~May. Any member of said board of trustees shall be eligible to succeed himself or herself, and~~
13 ~~all vacancies occurring in the membership of the board of trustees by death, resignation,~~
14 ~~disqualification or otherwise shall be filled by a special election for the members elected in~~
15 ~~Section 2 (a) and (c), to fill the unexpired term, and likewise by special appointment under~~
16 ~~Section 2 (b).~~

17 ~~(d) The board of trustees shall be organized immediately after the trustees provided for~~
18 ~~in this Section shall have qualified and taken the oath of office. The board of trustees shall be a~~
19 ~~body politic and corporate under the name of the Board of Trustees of Greensboro Firemen's~~
20 ~~Supplemental Retirement System, and as a body politic and corporate shall have the right to sue~~
21 ~~and be sued, shall have perpetual succession and a common seal, and in said corporate name~~
22 ~~shall be able and capable in law to take, receive and demand and possess all kinds of property~~
23 ~~hereinafter specified, and to bargain, sell, grant, alien, or dispose of all such property as it may~~
24 ~~lawfully acquire. All such property owned or acquired by said body politic and corporate shall~~
25 ~~be exempt from all taxes imposed by the State or any political subdivision thereof and shall not~~
26 ~~be subject to income taxes.~~

27 ~~(e) The board of trustees Board of Trustees may invest and deposit funds received~~
28 ~~under this act to any of those classes of securities, including certificates of deposits, as~~
29 ~~authorized for local government pursuant to G.S. 159-30.~~

30 ~~(f) Compensation of Trustees. The members of the Board of Trustees of the~~
31 ~~Greensboro Firemen's Supplemental Retirement System shall serve without compensation, but~~
32 ~~they shall be reimbursed for all necessary expenses incurred through service upon said board.~~

33 ~~(g) Each trustee shall, within 10 days after his appointment, take an oath of office~~
34 ~~before the mayor that, so far as it devolves upon him, he will diligently and honestly administer~~
35 ~~the affairs of said board and that he will not knowingly violate or willingly permit to be~~
36 ~~violated any of the provisions of law applicable to the retirement system. Such oath shall be~~
37 ~~subscribed to by the member making it, and certified by the officer by whom it is taken, and~~
38 ~~immediately filed in the office of the city clerk.~~

39 ~~(h) Meetings. The board of trustees shall hold regular quarterly meetings at such time~~
40 ~~and place as the board may determine. In addition thereto, the chairman or vice chairman of the~~
41 ~~board of trustees may call special meetings and upon request of two members of the board of~~
42 ~~trustees in writing, shall call a special meeting of the board of trustees. When so called, the~~
43 ~~secretary shall give notice in person or by special delivery mail to all members of the board at~~
44 ~~least 24 hours prior to such meeting, specifying the purpose of such meeting and time and~~
45 ~~place. The business of the special meeting shall be limited to the purpose as set forth in the~~
46 ~~notice.~~

47 ~~(i) Voting rights. Each trustee shall be entitled to one vote. Three affirmative votes~~
48 ~~shall be necessary for a decision by the trustees at any meeting of said board and the chairman~~
49 ~~shall only vote in case of a tie.~~

50 ~~(j) The chairman shall preside at all meetings and in his absence the vice chairman~~
51 ~~shall preside.~~

1 (k) ~~Officers. The Chairman, Vice Chairman, Secretary and the Treasurer of the~~
2 ~~Greensboro Firemen's Supplemental Retirement System shall be elected by the board of~~
3 ~~trustees from the membership of the board at the first organizational meeting and thereafter at~~
4 ~~the first regular quarterly meeting in each year.~~

5 (l) ~~Rules and Regulations. Subject to the limitations of this Act, the board of trustees~~
6 ~~shall, from time to time, establish rules and regulations for the administration of the funds~~
7 ~~created by this Act and for the transaction of its business. The board of trustees shall also, from~~
8 ~~time to time, in its discretion, adopt rules and regulations to prevent injustices and inequalities~~
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13 (n) ~~Record of Proceedings. Annual Report. The board of trustees shall keep a record of~~
14 ~~all its proceedings which shall be open to public inspection. It shall publish at the end of each~~
15 ~~fiscal year a report showing the fiscal transactions of the system for the preceding year, the~~
16 ~~amount of the accumulated cash of the system, and the last balance sheet, showing the financial~~
17 ~~condition of the system, including the valuation of the assets and liabilities of the retirement~~
18 ~~system. A copy of such annual report shall be provided for each of the fire stations of the City~~
19 ~~of Greensboro. The term 'fiscal year', as used in this Act, shall be defined to mean a period of~~
20 ~~time from July 1st to June 30th, inclusive.~~

21 (o) ~~Legal Adviser. The attorney or attorneys for the City of Greensboro shall be the~~
22 ~~legal adviser or advisers of the board of trustees.~~

23 (p) ~~Custodian of Funds. Disbursements. Bond of Treasurer. The treasurer shall handle~~
24 ~~all funds. The treasurer shall furnish such bond as shall be required by the board of trustees. He~~
25 ~~shall be custodian of all funds paid into the Greensboro Firemen's Supplemental Retirement~~
26 ~~System and shall deposit said funds in a bank or banks designated by the board of trustees. The~~
27 ~~premium for said bond shall be paid out of the funds of the system. All payments from such~~
28 ~~funds shall be made by him only upon voucher signed by two persons designated by the board~~
29 ~~of trustees. The books of the system shall be audited each two years and when a new treasurer~~
30 ~~is elected by a certified public accountant, and said report shall be presented at the first regular~~
31 ~~quarterly meeting of each year.~~

32 (q) ~~Liabilities of Trustees. No member of the board of trustees shall be personally liable~~
33 ~~by reason of his service as a trustee for any acts performed by him as a trustee, except for~~
34 ~~malfeasance in office.~~

35 (r) ~~Trustee Member Disqualified. In the event any uniformed member shall make~~
36 ~~application for benefits under this Act, and shall at such time be serving as a member of the~~
37 ~~board of trustees, he shall first disqualify himself and his vacancy shall be filled before the~~
38 ~~board of trustees receives such application.~~

39 "Sec. 3. There is hereby created and established in the Greensboro Firemen's-Firefighters'
40 Supplemental Retirement System a fund to be known as the 'supplemental retirement fund' and
41 hereinafter referred to as the 'fund'. The fund shall consist of all moneys and funds paid into the
42 system from the Firemen's-Firefighters' Relief Fund of the City of Greensboro from time to
43 time and as provided by law; all gifts of money, property of all kinds and description, proceeds
44 from property of all kinds and description, all moneys, funds or property transferred to the fund
45 by will, devise, bequest or by other means provided by law for the transfer or devolution of
46 property, donations and gifts made by the firemen of the City of Greensboro, investments,
47 earnings on investments, interest, dividends and any other funds or property that may accrue to
48 the fund, and the board of trustees is authorized to accept gifts, devises and bequests, and any
49 property or funds that may in anywise be transferred in operation of law. The moneys and
50 property of the fund may be invested by the board of trustees as heretofore provided in this Act.
51 Refunds may be made from the fund to anyone entitled thereby by reason of clerical mistake or

1 any clerical error or inadvertence. The fund shall be liable for the payment of the supplemental
2 benefits hereinafter referred to and defined. Any donations made to the Greensboro City Fire
3 Department in excess of the amount of one hundred dollars (\$100.00) may be given and
4 transferred to the fund by a majority vote of the members of the Greensboro City Fire
5 Department. The fund shall be liable for all reasonable and necessary expenses of
6 administration as shall be determined by the board of trustees.

7 "Sec. 4. Eligibility for supplemental benefits. For the purpose of this Section 'supplemental
8 benefit' as used in this Section shall be defined to mean any sum of money payable by the fund
9 to a fireman of the Greensboro City Fire Department who retires from the Local Governmental
10 Employees' Retirement System, as established by Article 3 of Chapter 128 of the General
11 Statutes of North Carolina, including disability retirement, as provided in said system. On and
12 after July 1, 1983, all firemen of the Greensboro City Fire Department who have attained 30
13 years of creditable service or who have attained the age of 55 years and who retire from the
14 Local Governmental Employees' Retirement System, including disability retirement, as
15 provided in the system, shall receive a minimum supplemental benefit of twenty-five dollars
16 (\$25.00) per month, except that the total amount paid all retired members of the Greensboro
17 City Fire Department shall not exceed eighty percent (80%) of the income received by the fund
18 during the preceding fiscal year from interest on investment of capital funds, plus the amount
19 derived from other sources; provided, that firemen who have retired prior to July 1, 1983, and
20 who have not attained 30 years of creditable service or who have not attained the age of 55
21 years shall receive benefits equal to benefits paid other retired firemen under this retirement
22 system. In the event that eighty percent (80%) of the income above mentioned is insufficient to
23 pay such minimum of twenty-five dollars (\$25.00) per month to each person receiving
24 supplemental benefit, the amount shall be equally prorated among the retired members of the
25 Greensboro City Fire Department. Each retired fireman receiving supplemental benefit in
26 accordance with this act shall receive the same amount of supplemental benefit per month;
27 provided, that the maximum payment to any retired member of the Greensboro City Fire
28 Department from said fund shall be one hundred thirty dollars (\$130.00) per month. All
29 amounts received for the fund, except eighty percent (80%) of the interest and funds received
30 from other sources, which is to be used for the payment of supplemental benefits to retired
31 members of the Greensboro City Fire Department, as herein provided, together with any part of
32 said eighty percent (80%) which is not paid out during the next fiscal year, shall become a part
33 of said fund and may be invested as provided in this Act. Should any fireman die, subsequent to
34 the payment of a supplemental benefit for any preceding month and prior to the payment of any
35 supplemental benefit in the month in which such fireman dies, then such supplemental benefit
36 for that month shall be paid to the deceased fireman's personal representative. The board of
37 trustees shall have the authority and power to promulgate rules and regulations to the end that
38 the supplemental benefits herein provided may be properly administered and carried out and for
39 the purpose of achieving the objectives herein sought.

40 "Sec. 5. The provisions of Section 4 of this Act shall not become effective as to the
41 payment of any supplemental benefits thereunder until on and after July 1, 1953.

42 "Sec. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

43 "Sec. 7. None of the provisions of this act shall create a liability for the Greensboro
44 ~~Firemen's-Firefighters'~~ Supplemental Retirement System or for the State of North Carolina
45 unless sufficient current assets are available in the fund to pay fully for this liability."

46 SECTION 2. Section 5.65 of the Charter of the City of Greensboro, being Chapter
47 1137 of the 1959 Session Laws, as amended by Chapter 29 of the 1971 Session Laws and
48 Chapter 807 of the 1985 Session Laws, reads as rewritten:

49 "Section 5.65. Creation and Duties of Board of Adjustment.

50 (a) The City Council may provide for the creation and organization of a Board of
51 Adjustment to which appeals may be taken from the decision of the building

1 ~~inspector~~compliance officer concerning provisions of the zoning, subdivision, mobile home,
2 and sign ordinances of the City of Greensboro and any other provisions of the Greensboro
3 Code of Ordinances in which appeals to the Board of Adjustment may be provided.

4 (b) The Board shall consist of seven (7) members to serve for three year overlapping
5 terms. The City Council may fix the duties, procedure for appeals to the Board and the vote
6 required to reverse the ~~building-inspector~~compliance officer. The Board of Adjustment shall
7 have the power to elect its own officers, to fix the times and places for its meetings, to adopt
8 necessary rules of procedure, and to adopt all other rules and regulations not inconsistent with
9 the duties conferred by the City Council and which may be necessary for the proper discharge
10 of its duties; and it shall keep an accurate record of all its proceedings.

11 (c) Every decision of the Board shall be subject to review by the Superior Court of
12 Guilford County by proceedings in the nature of certiorari instituted within thirty days of the
13 decision of the Board, but not otherwise."

14 **SECTION 3.** Section 5.74 of the Charter of the City of Greensboro, being Chapter
15 1137 of the 1959 Session Laws, as amended by Chapter 686 of the 1961 Session Laws, Chapter
16 55 of the 1963 Session Laws, and Chapter 74 of the 1967 Session Laws, reads as rewritten:

17 "Sec. 5.74. Housing Commission. (a) The city council may provide for the creation and
18 organization of a housing commission to which appeals may be taken from the decision of the
19 ~~building-inspector~~compliance officer upon any provision of the housing code of the city.

20 (b) The commission shall consist of seven members to serve for three-year overlapping
21 terms. It shall have power to elect its own officers, to fix the times and places for its meetings,
22 to adopt necessary rules of procedure, and to adopt all other rules and regulations not
23 inconsistent herewith which may be necessary for the proper discharge of its duties; and it shall
24 keep an accurate record of all its proceedings.

25 (c) An appeal from any decision or order of the ~~building-inspector~~compliance officer
26 may be taken by any person aggrieved thereby or by any officer, board or commission of the
27 city. Any appeal from the ~~building-inspector~~compliance officer to the commission shall be
28 taken within such reasonable time as shall be prescribed by the commission by general rule and
29 shall be taken by filing with the ~~building-inspector~~compliance officer and with the secretary of
30 the commission a notice of appeal which shall specify the grounds upon which the appeal is
31 based. Upon the filing of any notice of appeal, the ~~building-inspector~~compliance officer shall
32 forthwith transmit to the commission all the papers constituting the record upon which the
33 decision appealed from was made. When an appeal is from a decision of the ~~building~~
34 ~~inspector~~compliance officer refusing to allow the person aggrieved thereby to do any act, his
35 decision shall remain in force until modified or reversed. When any appeal is from a decision
36 of the ~~building-inspector~~compliance officer requiring the person aggrieved to do any act, the
37 appeal shall have the effect of suspending the requirement of the ~~building-inspector~~compliance
38 officer until the hearing by the commission, unless the ~~building-inspector~~compliance officer
39 certifies to the commission, after the notice of appeal is filed with him, that by reason of the
40 facts stated in the certificate (a copy of which shall be furnished the appellant), a suspension of
41 his requirement would cause imminent peril to life or property, in which case the requirement
42 shall not be suspended except by a restraining order, which may be granted, for due cause
43 shown and upon not less than one day's written notice to the ~~building-inspector~~compliance
44 officer, by the commission or by the Superior Court of Guilford County:

45 (d) The commission shall fix a reasonable time for the hearing of all appeals and shall
46 render its decision within a reasonable time. Any party may appear in person or by agent or
47 attorney. The commission may reverse or affirm, wholly or partly, or may modify the decision
48 appealed from, and may make such decision and order as in its opinion ought to be made in the
49 matter, and to that end it shall have all the powers of the ~~building-inspector~~compliance officer;
50 but the concurring vote of four members of the commission shall be necessary to reverse or
51 modify any decision of the ~~building-inspector~~compliance officer. The commission shall have

1 power also in passing upon appeals, in any case where there are practical difficulties or
2 unnecessary hardships in the way of carrying out the strict letter of the housing code, to adapt
3 the application of the code to the necessities of the case to the end that the spirit of the code
4 shall be observed, public safety and welfare secured and substantial justice done.

5 (e) Every decision of the commission shall be subject to review by the Superior Court
6 of Guilford County by proceedings in the nature of certiorari instituted within fifteen days of
7 the decision of the commission, but not otherwise.

8 (f) If a person fails to comply with an order of the ~~Building Inspector~~compliance
9 officer or, upon appeal, an order of the Housing Commission to repair, alter, improve, vacate,
10 close or demolish a building or dwelling, the ~~Building Inspector~~compliance officer may cause
11 such building or dwelling to be repaired, altered, improved, vacated, closed or demolished;
12 provided that the duties of the ~~Building Inspector~~compliance officer as set forth herein shall not
13 be exercised until the Housing Commission shall have, by resolution or other written decree,
14 ordered the ~~Inspector~~compliance officer to proceed to effectuate the above purposes with
15 respect to the particular property or properties involved."

16 **SECTION 4.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

1

HOUSE BILL 347

Short Title: Amend Greensboro Firefighters' Retirement. (Local)

Sponsors: Representatives Faircloth, Adams, Hardister, and Harrison (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Government, if favorable, State Personnel, if favorable, Finance.

March 20, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE GREENSBORO FIREFIGHTERS' SUPPLEMENTAL
3 RETIREMENT SYSTEM.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 899 of the 1953 Session Laws, as amended by Chapter 289
6 of the 1979 Session Laws, Chapter 466 of the 1983 Session Laws, Chapter 178 of the 1987
7 Session Laws, and Chapter 431 of the 1993 Session Laws, reads as rewritten:

8 "Section 1. There is hereby created and established a supplemental retirement system for
9 the members of the Fire Department of the City of Greensboro to be known as the 'Greensboro
10 ~~Firemen's Firefighters'~~ Supplemental Retirement System', hereinafter referred to in this Act as
11 'supplemental retirement system.' The purpose of the creation and establishment of the
12 supplemental retirement system, as provided for in this Act, shall be to increase, augment and
13 add to the benefits received by the firemen of the City of Greensboro who have already retired
14 and who may hereafter retire and become eligible for benefits under the provisions of the North
15 Carolina Local Governmental Employees' Retirement System in the sums and amounts
16 hereinafter provided under this Act. Notwithstanding the provisions of G.S. 58-84-35, the board
17 of trustees of the ~~Firemen's Firefighters'~~ Relief Fund of the City of Greensboro, duly appointed
18 under G.S. 58-84-30, shall pay ~~over to the board of trustees of the Greensboro Firemen's~~
19 ~~Supplemental Retirements System into the Supplemental Retirement System~~ on July 1 of each
20 year all sums entrusted to the Relief Fund's board of trustees in excess of the sum of ten
21 thousand dollars (\$10,000).

22 "Sec. 2. The general administration and responsibility for the proper operation of the
23 supplemental retirement system herein created and established and for the carrying out and
24 making effective the provisions of this Act are hereby vested in ~~a board of trustees who shall be~~
25 ~~chosen and selected as follows:~~ the Board of Trustees of the Firefighters' Relief Fund of the
26 City of Greensboro, duly appointed under G.S. 58-84-30.

27 (a) ~~Two members of said board of trustees shall be chosen from the membership of the~~
28 ~~Greensboro Fire Department and shall be elected by a majority vote of the uniformed members~~
29 ~~of the Fire Department of the City of Greensboro; one of said members shall hold office for a~~
30 ~~period of one year, and the other member so appointed shall hold office for a period of two~~
31 ~~years; thereafter, each of said two members chosen from the Greensboro Fire Department shall~~
32 ~~be appointed for a term of office consisting of a period of two years each.~~

33 The members of the Board of Trustees of the Greensboro Firemen's Supplemental
34 Retirement System serving upon the abolition of that Board shall serve as ex officio members



1 of the Board of Trustees of the Firefighters' Relief Fund of the City of Greensboro without
2 privilege of voting on matters before that Board.

3 (b) ~~Two members shall be appointed by the President of the Greensboro Fire Insurance~~
4 ~~Exchange; one of said members shall hold office for a period of one year, the other member so~~
5 ~~appointed shall hold office for a period of two years; and thereafter, each of said members shall~~
6 ~~be appointed for a term of office consisting of a period of two years.~~

7 (c) ~~One member of said board of trustees is to be a member of the Greensboro City~~
8 ~~Council and shall be elected for a term of two years by a majority vote of the City Council of~~
9 ~~the City of Greensboro.~~

10 ~~All members of the board of trustees shall be elected or appointed as specified in Section 2~~
11 ~~(a), (b) and (c) prior to the third Tuesday in May. They shall take office on the third Tuesday in~~
12 ~~May. Any member of said board of trustees shall be eligible to succeed himself or herself, and~~
13 ~~all vacancies occurring in the membership of the board of trustees by death, resignation,~~
14 ~~disqualification or otherwise shall be filled by a special election for the members elected in~~
15 ~~Section 2 (a) and (c), to fill the unexpired term, and likewise by special appointment under~~
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18 ~~in this Section shall have qualified and taken the oath of office. The board of trustees shall be a~~
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25 ~~be exempt from all taxes imposed by the State or any political subdivision thereof and shall not~~
26 ~~be subject to income taxes.~~

27 (e) ~~The board of trustees~~ Board of Trustees ~~may invest and deposit funds received~~
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32 ~~they shall be reimbursed for all necessary expenses incurred through service upon said board.~~

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34 ~~before the mayor that, so far as it devolves upon him, he will diligently and honestly administer~~
35 ~~the affairs of said board and that he will not knowingly violate or willingly permit to be~~
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37 ~~subscribed to by the member making it, and certified by the officer by whom it is taken, and~~
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39 (h) ~~Meetings. The board of trustees shall hold regular quarterly meetings at such time~~
40 ~~and place as the board may determine. In addition thereto, the chairman or vice chairman of the~~
41 ~~board of trustees may call special meetings and upon request of two members of the board of~~
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16 ~~amount of the accumulated cash of the system, and the last balance sheet, showing the financial~~
17 ~~condition of the system, including the valuation of the assets and liabilities of the retirement~~
18 ~~system. A copy of such annual report shall be provided for each of the fire stations of the City~~
19 ~~of Greensboro. The term 'fiscal year', as used in this Act, shall be defined to mean a period of~~
20 ~~time from July 1st to June 30th, inclusive.~~

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46 property, donations and gifts made by the firemen of the City of Greensboro, investments,
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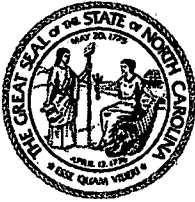
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9 to a fireman of the Greensboro City Fire Department who retires from the Local Governmental
10 Employees' Retirement System, as established by Article 3 of Chapter 128 of the General
11 Statutes of North Carolina, including disability retirement, as provided in said system. On and
12 after July 1, 1983, all firemen of the Greensboro City Fire Department who have attained 30
13 years of creditable service or who have attained the age of 55 years and who retire from the
14 Local Governmental Employees' Retirement System, including disability retirement, as
15 provided in the system, shall receive a minimum supplemental benefit of twenty-five dollars
16 (\$25.00) per month, except that the total amount paid all retired members of the Greensboro
17 City Fire Department shall not exceed eighty percent (80%) of the income received by the fund
18 during the preceding fiscal year from interest on investment of capital funds, plus the amount
19 derived from other sources; provided, that firemen who have retired prior to July 1, 1983, and
20 who have not attained 30 years of creditable service or who have not attained the age of 55
21 years shall receive benefits equal to benefits paid other retired firemen under this retirement
22 system. In the event that eighty percent (80%) of the income above mentioned is insufficient to
23 pay such minimum of twenty-five dollars (\$25.00) per month to each person receiving
24 supplemental benefit, the amount shall be equally prorated among the retired members of the
25 Greensboro City Fire Department. Each retired fireman receiving supplemental benefit in
26 accordance with this act shall receive the same amount of supplemental benefit per month;
27 provided, that the maximum payment to any retired member of the Greensboro City Fire
28 Department from said fund shall be one hundred thirty dollars (\$130.00) per month. All
29 amounts received for the fund, except eighty percent (80%) of the interest and funds received
30 from other sources, which is to be used for the payment of supplemental benefits to retired
31 members of the Greensboro City Fire Department, as herein provided, together with any part of
32 said eighty percent (80%) which is not paid out during the next fiscal year, shall become a part
33 of said fund and may be invested as provided in this Act. Should any fireman die, subsequent to
34 the payment of a supplemental benefit for any preceding month and prior to the payment of any
35 supplemental benefit in the month in which such fireman dies, then such supplemental benefit
36 for that month shall be paid to the deceased fireman's personal representative. The board of
37 trustees shall have the authority and power to promulgate rules and regulations to the end that
38 the supplemental benefits herein provided may be properly administered and carried out and for
39 the purpose of achieving the objectives herein sought.

40 "Sec. 5. The provisions of Section 4 of this Act shall not become effective as to the
41 payment of any supplemental benefits thereunder until on and after July 1, 1953.

42 "Sec. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

43 "Sec. 7. None of the provisions of this act shall create a liability for the Greensboro
44 ~~Firemen's-Firefighters'~~ Supplemental Retirement System or for the State of North Carolina
45 unless sufficient current assets are available in the fund to pay fully for this liability."

46 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 391: Volunteer Service in Retirement

2013-2014 General Assembly

Committee:	Senate Pensions & Retirement and Aging	Date:	June 24, 2013
Introduced by:	Rep. Boles	Prepared by:	Theresa Matula
Analysis of:	PCS to First Edition H391-CSLL-25		Committee Staff

SUMMARY: *House Bill 391 amends the Teachers' and State Employees' Retirement System to allow a retiree to volunteer as an unpaid bona fide Guardian ad Litem volunteer in the Guardian ad Litem Program without it being considered as service and jeopardizing member's retirement.*

The PCS specifies that service as a member of the board of trustees of a community college, or board of trustees of any constituent institution of The University of North Carolina, will also not be considered service.

[As introduced, this bill was identical to S616, as introduced by Sen. Brown, which is currently in Senate Pensions & Retirement and Aging.]

CURRENT LAW:

Retirement Law - G.S. 135-1(20) contains the definition for "Retirement" as it relates to the Teachers' and State Employees' Retirement System. S.L. 2007-143 added the following language to the definition of "retirement": "For purposes of this subdivision, service as a member of a school board shall not be considered service." S.L. 2009-11 added language to specify that service "as an unpaid bona fide volunteer in a local school administrative unit" shall not be considered service.

G.S. 135-1(23) contains the definition of "Service" which means service as a teacher or State employee as described in definition of "Employee" ¹ or "Teacher" ².

Guardian Ad Litem – Article 2 of Chapter 7B provides for the Guardian Ad Litem (GAL) Program. The program provides services in accordance with G.S. 7B-601 to abused, neglected, or dependent juveniles involved in judicial proceedings. Local programs consist of volunteer guardians ad litem, at least one program attorney, a paid State employee who serves as the program coordinator, and clerical staff as deemed necessary. According to the NC Courts Website, a GAL is a trained volunteer appointed by the court to advocate for the best interests of an abused or neglected child. Volunteers possess a variety of professional, educational and ethnic backgrounds, no special education or experience is required. <http://www.nccourts.org/Support/FAQs/FAQs.asp?Type=12&language=1> (Link to more information on volunteer Guardian Ad litem: http://www.nccourts.org/Citizens/GAL/Documents/GAL_jobdescription.pdf)

BILL ANALYSIS:

As provided above, G.S. 135-1(20) specifies that retirement is the "termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service." It further provides that, "In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement." The current law

¹ "Employee" as defined in G.S. 135-1(10).

² "Teacher" as defined in G.S. 135-1(25).

O. Walker Reagan
Director



Research Division
(919) 733-2578

House PCS 391

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also specifies that, "service as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service."

House Bill 391 would allow a retiree to serve as an unpaid bona fide volunteer Guardian ad Litem in the Guardian ad Litem Program without jeopardizing retirement. The PCS for HB 391 specifies that service as a member of the board of trustees of a community college, or board of trustees of any constituent institution of The University of North Carolina, would also not be considered service.

EFFECTIVE DATE: House Bill 391 would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 391
PROPOSED SENATE COMMITTEE SUBSTITUTE H391-PCS70465-LL-25

Short Title: Volunteer Service in Retirement.

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEFINITION OF RETIREMENT TO CLARIFY THAT
3 SERVICE AS A MEMBER OF THE BOARD OF TRUSTEES OF A COMMUNITY
4 COLLEGE, AS A MEMBER OF A BOARD OF TRUSTEES OF A CONSTITUENT
5 INSTITUTION OF THE UNIVERSITY OF NORTH CAROLINA, OR AS A
6 VOLUNTEER GUARDIAN AD LITEM IN THE GUARDIAN AD LITEM PROGRAM
7 IS NOT CONSIDERED SERVICE FOR THE PURPOSES OF THAT DEFINITION.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 135-1(20) reads as rewritten:

10 "(20) "Retirement" means the termination of employment and the complete
11 separation from active service with no intent or agreement, express or
12 implied, to return to service. A retirement allowance under the provisions of
13 this Chapter may only be granted upon retirement of a member. In order for
14 a member's retirement to become effective in any month, the member must
15 render no service, including part-time, temporary, substitute, or contractor
16 service, at any time during the six months immediately following the
17 effective date of retirement. For purposes of this subdivision, service as a
18 member of a school ~~board~~board, board of trustees of a community college,
19 board of trustees of any constituent institution of The University of North
20 Carolina, or as an unpaid bona fide volunteer in a local school administrative
21 unit-unit, or as an unpaid bona fide volunteer guardian ad litem in the
22 guardian ad litem program shall not be considered service. A member who is
23 a full-time faculty member of The University of North Carolina may effect a
24 retirement allowance under this Chapter, notwithstanding the six-month
25 requirement above, provided the member immediately enters the
26 University's Phased Retirement Program for Tenured Faculty as that
27 program existed on May 25, 2011."

28 SECTION 2. This act becomes effective July 1, 2013.



* H 3 9 1 - P C S 7 0 4 6 5 - L L - 2 5 *

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

1

HOUSE BILL 391

Short Title: Volunteer Service in Retirement.

(Public)

Sponsors: Representative Boles (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: State Personnel, if favorable, Finance.

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE DEFINITION OF RETIREMENT TO CLARIFY THAT
3 SERVICE AS A VOLUNTEER GUARDIAN AD LITEM IN THE GUARDIAN AD
4 LITEM PROGRAM IS NOT CONSIDERED SERVICE FOR THE PURPOSE OF THAT
5 DEFINITION.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 135-1(20) reads as rewritten:

8 "(20) "Retirement" means the termination of employment and the complete
9 separation from active service with no intent or agreement, express or
10 implied, to return to service. A retirement allowance under the provisions of
11 this Chapter may only be granted upon retirement of a member. In order for
12 a member's retirement to become effective in any month, the member must
13 render no service, including part-time, temporary, substitute, or contractor
14 service, at any time during the six months immediately following the
15 effective date of retirement. For purposes of this subdivision, service as a
16 member of a school ~~board-board~~, or as an unpaid bona fide volunteer in a
17 local school administrative ~~unit-unit~~, or as an unpaid bona fide volunteer
18 Guardian ad Litem in the Guardian ad Litem Program shall not be
19 considered service. A member who is a full-time faculty member of The
20 University of North Carolina may effect a retirement allowance under this
21 Chapter, notwithstanding the six-month requirement above, provided the
22 member immediately enters the University's Phased Retirement Program for
23 Tenured Faculty as that program existed on May 25, 2011."

24 **SECTION 2.** This act becomes effective July 1, 2013.



GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Retirement Note

RETIREMENT

REVISED

BILL NUMBER: House Bill 391 (Senate Proposed Committee Substitute)

SHORT TITLE: Volunteer Service in Retirement.

FUNDS AFFECTED: General Fund, Highway Fund, and Receipt Funds

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Retirement System.

EFFECTIVE DATE: July 1, 2013

BILL SUMMARY: Amends the definition of "Retirement" to add service as a member of a board of trustees of a community college or any constituent institutions of the University of North Carolina or service as an unpaid bona fide volunteer as a Guardian ad Litem member in the Guardian ad Litem program during the required six month break so that it is not considered service for the purpose of retirement.

ESTIMATED IMPACT: Both the Retirement System Actuary, Buck Consultants, and the General Assembly Actuary, Hartman & Associates, agree that there would be no material financial impact as a result of the enactment of this bill.

ASSUMPTIONS AND METHODOLOGY:

Teachers' & State Employees' Retirement System

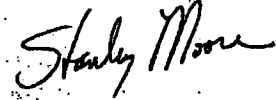
The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2011 actuarial valuation of the System. The data included 310,627 active members with an annual payroll of \$12.8 billion, 171,786 retired members in receipt of annual pensions totaling \$3.5 billion and actuarial value of assets equal to \$58.1 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.25% which includes inflation of 3%, (b) projected salary increases between 4.25% to 9.10% which includes inflation of 3.5%, (c) RP-2000 Mortality tables for retirees are set back one year for male teachers, set forward one year for all general employees and unadjusted for female teachers and all law enforcement officers, (d) RP-2000 Mortality tables for disabled retirees are set back six years for males and set forward one year for females, (e) RP-2000 Mortality tables for active employees are set back one year for male teachers, set forward one year for all general employees and unadjusted for female teachers and all law enforcement officers, (f) rates of separation from active service based on System experience. The actuarial cost method used was the entry age normal cost method and a amortization period of twelve years. Detailed information concerning these assumptions and methods are shown in the actuary's report, which is available upon request from Stanley Moore

SOURCES OF DATA: Buck Consultants
Hartman & Associates, LLC

TECHNICAL CONSIDERATIONS: None

FISCAL RESEARCH DIVISION: (919) 733-4910. The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: Stanley Moore



APPROVED BY:



Mark Trogon, Director
Fiscal Research Division

DATE: June 24, 2013

June 24, 2013

Mr. Sam Watts
Policy Development Analyst
State of North Carolina
Department of State Treasurer
Retirement Systems Division
325 North Salisbury Street
Raleigh, NC 27603-1385

Re: Proposed Senate Committee Substitute H391-CSLL-25[v.2]

Dear Mr. Watts:

We have received your request of June 19 regarding Proposed Senate Committee Substitute H391-CSLL-25[v.2], which affects the Teachers' and State Employees' Retirement System (TSERS).

This bill amends G.S. 135-1(20) and appears to add that unpaid bona fide volunteer service as a Guardian ad Litem member in the Guardian ad Litem program or service as a member of the board of trustees of a community college or any constituent institution of the University of North Carolina is not considered service under this Section.

Based on the methods, plan provisions and assumptions used in the December 31, 2011 actuarial valuation of TSERS, this proposed legislation does not increase the liabilities or contribution rates of TSERS.

This legislation would become effective on July 1, 2013.

The estimates above are based upon assumptions regarding future events, which may or may not materialize. They are also based upon present plan provisions that are outlined in the December 31, 2011 actuarial valuation report and proposed plan provisions outlined in this actuarial note. If you have reason to believe that the assumptions that were used are unreasonable, that the plan provisions are incorrectly described, that important plan provisions relevant to this proposal are not described, or that conditions have changed since the calculations were made, you should contact the authors of this actuarial note prior to relying on this information.

The undersigned are Members of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion contained herein.

Mr. Sam Watts
June 24, 2013
Page 2

If you have any questions concerning this information, please let us know.

Very truly yours,



Michael A. Ribble, FSA, EA, MAAA
Principal, Consulting Actuary



Larry Langer, ASA, EA, MAAA
Principal, Consulting Actuary

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HARTMAN & ASSOCIATES, LLC

ACTUARIAL CONSULTING

MARK V. HARTMAN, FSA, MAAA, MCA, EA

hartman@triad.rr.com

Phone: (336) 731-4038

Fax: (336) 731-2583

668 Link Road
Lexington, NC 27295

June 19, 2013

Mr. Stanley Moore
Fiscal Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, NC 27603-5925

Re: House Bill 391 Proposed Senate Committee Substitute H391-CSSL-25 [v.2]: An Act to Amend the Definition of Retirement to Clarify that Service as a Member of the Board of Trustees of a Community College, a Member of a Board of Trustees of a Constituent Institution of UNC, or a Volunteer Guardian ad Litem in the Guardian ad Litem Program Is Not Considered Service for the Purpose of That Definition

Dear Mr. Moore:

This committee substitute to the bill amends G.S. 135-1(20) to modify the definition of retirement in the Teachers' and State Employees' Retirement System (TSERS). This definition currently provides that for retirement to be effective in any month, the member must render no service at any time during the six months following the effective date of retirement. For this purpose, service as a member of a school board or as an unpaid bona fide volunteer in a local school is not considered.

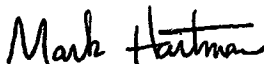
This bill clarifies that service as a member of a board of trustees of a community college, service as a member of a board of trustees of any constituent institution of the University of North Carolina, or service as an unpaid bona fide volunteer Guardian ad Litem in the Guardian ad Litem Program is not considered service for this purpose. This act is effective July 1, 2013.

These changes are not expected to have a material financial impact on the TSERS.

I am an independent consulting actuary and a member of the American Academy of Actuaries. I meet the qualification standards for rendering the actuarial opinions contained in this report. This report was completed based on generally accepted actuarial principles and practices and is intended to meet the requirements of North Carolina G.S. 120-114. It is issued to assist the Fiscal Research Division in completing the required actuarial note and is not intended for any other party or for any other purpose.

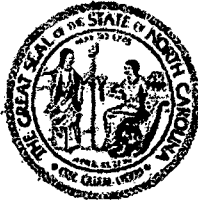
If you have any questions, let me know.

Sincerely,



Mark V. Hartman, FSA, MAAA, FCA, EA
Consulting Actuary

MVH/mt



HOUSE BILL 551: Amend Wilmington Firefighters' Relief Fund

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Reps. Davis, Hamilton
Analysis of: Second Edition

Date: June 21, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 551 makes changes to the Local Fireman's Relief Fund of the City of Wilmington regarding the transfer of funds to the Wilmington Fireman's Benefit Fund, makes a supplemental retirement benefit change, and updates statutory references.*

BILL ANALYSIS:

House Bill 551 amends Chapter 505 of the 1983 Session Laws, as amended by Chapter 904 of the 1987 Session Laws, to make the changes outlined below.

- Updates statutory references. (Chapter 118 Firemen's and Rescue Squad Workers' Relief and Pension Fund was recodified as Articles 84 and 85 of Chapter 58.)
- Requires the Board of Trustees of the Local Fireman's Relief Fund of the City of Wilmington to transfer to the Wilmington Fireman's Benefit Fund funds from the Relief Fund in excess of: \$15,000 for 2013 calendar year; \$30,000 for the 2014 calendar year; and in subsequent years an amount in excess of \$15,000 greater than the prior year until the Relief Fund reaches \$105,000.
- Repeals the current requirement that funds be transferred from the Benefit Fund to the Relief Fund in an amount sufficient to maintain \$15,000 in the Relief Fund.
- Limits benefits for surviving spouses and beneficiaries to those receiving retirement or disability benefits of the firefighter from the Fireman's Pension Fund of Wilmington or the Local Government Employees' Retirement System (LGERS) as of June 30, 2013.
- Clarifies that the act would not create a liability for the Wilmington Fireman's Benefit Fund unless sufficient current assets were available in the Benefit Fund to pay fully for the liability.

EFFECTIVE DATE: House Bill 551 would become effective when it becomes law.

CURRENT LAW:

S.L. 1983-505, as amended by S.L. 1987-904, requires the Board of Trustees of the Local Fireman's Relief Fund in Wilmington to establish a separate Wilmington Fireman's Benefit Fund (Benefit Fund). The local act requires funds in excess of \$15,000 in the Relief Fund to be transferred to the Benefit Fund annually, and funds from the Benefit Fund be transferred to the Relief Fund when needed to maintain a \$15,000 balance in the Relief Fund. The local act also specifies how funds in the Benefit Fund are to be transferred and disbursed to retired firefighters and surviving beneficiaries of certain firefighters.

Article 84 of Chapter 58 of the General Statutes provides for certain tax proceeds to be distributed to counties and fire districts for the fireman's local relief fund in each district. A county, town or city deriving those benefits must appoint a local Firefighters' Relief Fund board of trustees.

O. Walker Reagan
Director



Research Division
(919) 733-2578

House Bill 551

Page 2

G.S. 58-84-30 requires each county, town or city deriving these benefits to appoint a local Firefighters' Relief Fund board of trustees. The trustees hold office for their elected or appointed time, or until successors are elected or appointed and serve without pay. This board is composed of five members:

- two elected by the members of the local fire department, or departments, who must be qualified as beneficiaries of the fund, and serve a two year term;
- two are elected by the mayor and board of aldermen, or other local governing body, and serve a two year term; and
- one named by the Commissioner of Insurance that serves at the Commissioner's pleasure.

G.S. 58-84-35 gives the board of trustees entire control of those funds and requires they be distributed only for the following purposes:

- To safeguard active service fireman from financial loss caused by sickness or injury caused by job duties.
- To provide reasonable support for actual dependents of a deceased firefighter who lost his or her life due to an accident or disease caused by fire service.
- To assist, upon approval by the Secretary of the State Firemen's Association, to a destitute member fireman who has served honorably for at least five years.
- To provide payment of a fireman's assessment in the Firemen's Fraternal Insurance Fund of the State of North Carolina if the fireman is unable to pay the assessment due to disability.
- To provide benefits of supplemental retirement, workers compensation, and other insurance and pension protection for firefighters otherwise qualifying for benefits from the Firefighters' Relief Fund.
- To provide educational benefits to firemen and their dependents who otherwise qualify for benefits from the Firefighters' Relief Fund.

Shelly DeAdder, staff to House Government, contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 551
Committee Substitute Favorable 5/6/13

Short Title: Amend Wilmington Firefighters' Relief Fund.

(Local)

Sponsors:

Referred to:

April 4, 2013

A BILL TO BE ENTITLED

AN ACT TO AMEND THE ACT CREATING A FIREMEN'S BENEFIT FUND FOR
FIREMEN IN THE CITY OF WILMINGTON, AS AMENDED, AND TO MODIFY THE
APPLICATION OF G.S. 58-84-35 TO THE CITY OF WILMINGTON.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 505 of the 1983 Session Laws, as amended by Chapter 904
of the 1987 Session Laws, reads as rewritten:

"Section 1. Fireman's Benefit Fund Created. The Board of Trustees of the Local Fireman's
Relief Fund of the city of Wilmington, as established in accordance with ~~G.S. 118-6,~~
G.S. 58-84-30, hereinafter called the Board of Trustees, shall create and maintain a separate
fund to be called the Wilmington Fireman's Benefit Fund, hereinafter the Fireman's Benefit
Fund, and shall maintain books of account for such Fund separate from the books of account of
the Local Fireman's Relief Fund. The board of trustees shall pay into the Fireman's Benefit
Fund the funds prescribed by this act.

"Section 2. Transfers of Funds and Disbursements. Notwithstanding the provisions of
~~G.S. 118-7, G.S. 58-84-35~~, the Board of Trustees of the Local Fireman's Relief Fund of the
City of Wilmington shall:

(a) prior to January 1, 1984 and prior to January 1 in each subsequent calendar year,
transfer to the Fireman's Benefit Fund all funds (including earnings on investments) belonging
to the Local Fireman's Relief Fund in excess of ~~fifteen thousand dollars, (\$15,000); fifteen~~
thousand dollars (\$15,000) for the 2013 calendar year, in excess of thirty thousand dollars
(\$30,000) for the 2014 calendar year, and in excess of the amount transferred the previous year
increased by fifteen thousand dollars (\$15,000) in each calendar year thereafter until the
balance in the Local Firemen's Relief Fund reaches one hundred five thousand dollars
(\$105,000).

(b) ~~at any time when the amount of funds in the Local Fireman's Relief Fund shall, by~~
~~reason of disbursements authorized by G.S. 118-7, be less than fifteen thousand dollars~~
~~(\$15,000), transfer from Fireman's Benefit Fund to the Local Fireman's Relief Fund an amount~~
~~sufficient to maintain in the Local Fireman's Relief Fund the sum of fifteen thousand dollars~~
~~(\$15,000);~~

(c) as soon as practical after January 1 of each calendar year thereafter, but in no event
later than July 1, divide funds belonging to the Fireman's Benefit Fund in equal shares and
disburse the same as retirement benefits in accordance with Section 3 of this act.

"Section 3. Fireman's Benefits. Each retired fireman of the City, who is receiving retirement
or disability benefits from the Fireman's Pension Fund of Wilmington, North Carolina or the
North Carolina Local Governmental Employees Retirement System, shall be entitled to and



* H 5 5 1 - V - 2 *

1 shall receive in each calendar year following the calendar year in which he retires the following
2 supplemental retirement benefits: one share for each full year of service as a full-time fireman
3 of the City of Wilmington. Each surviving spouse or beneficiary of a fireman who is receiving
4 retirement or disability benefits from the Fireman's Pension Fund of Wilmington, North
5 Carolina or the North Carolina Local Governmental Employees Retirement System on June 30,
6 2013, shall be entitled to and shall receive in each calendar year following the calendar year in
7 which the retired fireman dies, the following supplemental benefit: one share for each full year
8 of service as the employee as a full time fireman of the City of Wilmington.

9 "Section 4. Investment of Fund. The board of trustees is hereby authorized to invest any
10 funds, either of the Local Firemen's Relief Fund or of the Firemen's Benefit Fund, in any
11 investment named in or authorized by either G.S. 159-30 or G.S. 159.31, and is hereby directed
12 to invest all of the funds belonging to the Firemen's Benefit Fund in one or more such
13 investments; provided, that investment in certificates of deposit or time deposit in any or trust
14 company, or in shares of any savings and loan association, shall not exceed the amount insured
15 by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance
16 Corporation, as the case may be, unless such deposits or investments in shares are secured in
17 the manner provided by G.S. 159-30 or G.S. 159.31.

18 "Section 5. Acceptance of Gifts. The board of trustees may accept any gift, grant, bequest,
19 or donation of money for the use of the Firemen's Benefit Fund.

20 "Section 6. Bond of Treasurer. The board of trustees shall bond the treasurer of the Local
21 Firemen's Relief Fund with a good and sufficient bond in an amount at least equal to the
22 amount of funds in his control, payable to the board of trustees, and conditioned upon the
23 faithful performance of his duties; such bond shall be in lieu of the bond required by
24 ~~G.S. 118-6~~ G.S. 58-84-30. The board of trustees may pay the premiums for the bond of the
25 treasurer from the Firemen's Benefit Fund.

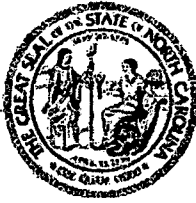
26 "Section 7. Severability. If any provision of this act is declared invalid by a court of
27 competent jurisdiction, the invalidity shall not affect other provision hereof which can be in
28 affect without the invalid provision, and to this end the provisions of this act are declared to be
29 severable.

30 "Section 8. Repealer. All laws and clauses of laws in conflict with this act are hereby
31 repealed.

32 "Section 9. None of the provisions of this act shall create a liability for the ~~New Hanover~~
33 Wilmington Firemen's Benefit Fund unless sufficient current assets are available in the Fund to
34 pay fully for the liability.

35 "Section 10. This act is effective upon ratification."

36 **SECTION 2.** This act is effective when it becomes law.



HOUSE BILL 402: TRICARE Supplement for Flex Accounts

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Reps. Szoka, Dockham, Ramsey, Floyd
Analysis of: PCS to Second Edition
H402-CSSH-24

Date: June 21, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 402 requires State entities that offer flexible compensation plans to offer a TRICARE supplement.*

The PCS makes changes to the long title and a sentence in Section 5 of the bill so that they conform to an amendment adopted by the House.

[As introduced, this bill was identical to S395, as introduced by Sen. Meredith, which is currently in Senate Pensions & Retirement and Aging.]

BILL ANALYSIS:

House Bill 402 requires the following State entities to offer a TRICARE supplement if they offer a plan of flexible compensation:

- employees of local school administrative units (*Section 1*)
- employees of the constituent institutions of the NC Community College System (*Section 2*)
- employees of the constituent institutions of The University of North Carolina (*Section 3*)
- employees of State departments, institutions, and agencies (*Section 4*).

Section 5 requires State entities to use a competitive bid process to award contracts to third-party providers for TRICARE supplement options and requires the NC Flex plan administered by the Office of State Personnel to offer a TRICARE supplement no later than January 1, 2015.

The PCS changes the long title and Section 5 to conform to changes made by the House requiring a TRICARE supplement to be offered if a flexible compensation plan is offered.

EFFECTIVE DATE: House Bill 402 would become effective when it becomes law.

BACKGROUND:

TRICARE is the health care program offered by the Department of Defense that provides health care coverage for medical services, medications, and dental care for military families and retirees.
<http://www.tricare.mil/>

O. Walker Reagan
Director



Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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D

HOUSE BILL 402*
Second Edition Engrossed 5/7/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H402-PCS30576-SH-24

Short Title: TRICARE Supplement for Flex Accounts.

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE A TRICARE SUPPLEMENT TO BE OFFERED IF A PLAN OF
3 FLEXIBLE COMPENSATION IS OFFERED BY THE STATE.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-341.1 reads as rewritten:

6 "§ 115C-341.1. Flexible Compensation Plan.

7 Notwithstanding any other provisions of law relating to the salaries of employees of local
8 boards of education, the State Board of Education is authorized to provide a plan of flexible
9 compensation to eligible employees of local school administrative units for benefits available
10 under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This
11 plan shall not include those benefits provided to employees under Articles 1, 3, 3B, and 6 of
12 Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that
13 may be carried forward from year to year by employees as a form of deferred compensation. If
14 a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In
15 providing a plan of flexible compensation, the State Board may authorize local school
16 administrative units to enter into agreements with their employees for reductions in the salaries
17 of employees electing to participate in the plan of flexible compensation provided by this
18 section. Should the State Board decide to contract with a third party to administer the terms and
19 conditions of a plan of flexible compensation as provided by this section, it may select such a
20 contractor only upon a thorough and completely advertised competitive procurement process."

21 SECTION 2. G.S. 115D-25.2 reads as rewritten:

22 "§ 115D-25.2. Flexible Compensation Plan.

23 Notwithstanding any other provisions of law relating to the salaries of employees of
24 community college boards of trustees, the State Board of Community Colleges is authorized to
25 provide a plan of flexible compensation to eligible employees of constituent institutions for
26 benefits available under Section 125 and related sections of the Internal Revenue Code of 1986
27 as amended. This plan shall not include those benefits provided to employees under Articles 1,
28 3, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any
29 other leave that may be carried forward from year to year by employees as a form of deferred
30 compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall
31 be offered. In providing a plan of flexible compensation, the State Board may authorize
32 constituent institutions to enter into agreements with their employees for reductions in the
33 salaries of employees electing to participate in the plan of flexible compensation provided by
34 this section. With the approval of the Director of the Budget, savings in the employer's share of
35 contributions under the Federal Insurance Contributions Act on account of the reduction in



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1 salary may be used to pay some or all of the administrative expenses of the program. Should
2 the State Board decide to contract with a third party to administer the terms and conditions of a
3 plan of flexible compensation as provided by this section, it may select such a contractor only
4 upon a thorough and completely advertised competitive procurement process."

5 **SECTION 3.** G.S. 116-17.2 reads as rewritten:

6 **"§ 116-17.2. Flexible Compensation Plan.**

7 Notwithstanding any other provisions of law relating to the salaries of employees of The
8 University of North Carolina, the Board of Governors of The University of North Carolina is
9 authorized to provide a plan of flexible compensation to eligible employees of constituent
10 institutions for benefits available under Section 125 and related sections of the Internal
11 Revenue Code of 1986 as amended. This plan shall not include those benefits provided to
12 employees under Articles 1, ~~3, 3B~~, and 6 of Chapter 135 of the General Statutes nor any
13 vacation leave, sick leave, or any other leave that may be carried forward from year to year by
14 employees as a form of deferred compensation. If a plan of flexible compensation is offered,
15 then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the
16 Board of Governors may authorize constituent institutions to enter into agreements with their
17 employees for reductions in the salaries of employees electing to participate in the plan of
18 flexible compensation provided by this section. With the approval of the Director of the
19 Budget, savings in the employer's share of contributions under the Federal Insurance
20 Contributions Act on account of the reduction in salary may be used to pay some or all of the
21 administrative expenses of the program. Should the Board of Governors decide to contract with
22 a third party to administer the terms and conditions of a plan of flexible compensation as
23 provided by this section, it may select such a contractor only upon a thorough and completely
24 advertised competitive procurement process."

25 **SECTION 4.** G.S. 126-95(b) reads as rewritten:

26 "(b) Notwithstanding any other provisions of law relating to the salaries of officers and
27 employees of departments, institutions, and agencies of State government, the Director of the
28 Budget may provide a plan of flexible compensation to eligible officers and employees of State
29 departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for
30 benefits available under section 125 and related sections of the Internal Revenue Code of 1986,
31 as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to
32 employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1,
33 ~~3, 3B~~, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include
34 offerings for products and benefits that are supplemental or additional to these statutory
35 benefits. If a plan of flexible compensation is offered, then a TRICARE supplement shall be
36 offered. In providing a plan of flexible compensation, the Director of the Budget may authorize
37 State departments, institutions, and agencies to enter into agreements with their employees for
38 reductions in the salaries of employees electing to participate in the plan of flexible
39 compensation provided by this section. With the approval of the Director of the Budget,
40 savings in the employer's share of contributions under the Federal Insurance Contributions Act
41 on account of the reduction in salary may be used to pay some or all of the administrative
42 expenses of the program. Should the Director of the Budget decide to contract with a third
43 party to administer the terms and conditions of a plan of flexible compensation as provided by
44 this section, it may select such a contractor only upon a thorough and completely advertised
45 competitive procurement process."

46 **SECTION 5.** State entities shall use a competitive bid process to award contracts
47 to third-party providers for TRICARE supplement options. The NC Flex plan administered by
48 the Office of State Personnel shall offer a TRICARE supplement no later than January 1, 2015.

49 **SECTION 6.** This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 402*
Second Edition Engrossed 5/7/13

Short Title: TRICARE Supplement for Flex Accounts. (Public)

Sponsors: Representatives Szoka, Dockham, Ramsey, and Floyd (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: State Personnel, if favorable, Appropriations.

March 21, 2013

A BILL TO BE ENTITLED
AN ACT TO ALLOW A TRICARE SUPPLEMENT FOR FLEXIBLE COMPENSATION
PLANS OFFERED BY THE STATE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-341.1 reads as rewritten:

"§ 115C-341.1. Flexible Compensation Plan.

Notwithstanding any other provisions of law relating to the salaries of employees of local boards of education, the State Board of Education is authorized to provide a plan of flexible compensation to eligible employees of local school administrative units for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, 3, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize local school administrative units to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. Should the State Board decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 2. G.S. 115D-25.2 reads as rewritten:

"§ 115D-25.2. Flexible Compensation Plan.

Notwithstanding any other provisions of law relating to the salaries of employees of community college boards of trustees, the State Board of Community Colleges is authorized to provide a plan of flexible compensation to eligible employees of constituent institutions for benefits available under Section 125 and related sections of the Internal Revenue Code of 1986 as amended. This plan shall not include those benefits provided to employees under Articles 1, 3, 3B, and 6 of Chapter 135 of the General Statutes nor any vacation leave, sick leave, or any other leave that may be carried forward from year to year by employees as a form of deferred compensation. If a plan of flexible compensation is offered, then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the State Board may authorize constituent institutions to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in



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1 salary may be used to pay some or all of the administrative expenses of the program. Should
2 the State Board decide to contract with a third party to administer the terms and conditions of a
3 plan of flexible compensation as provided by this section, it may select such a contractor only
4 upon a thorough and completely advertised competitive procurement process."

5 **SECTION 3.** G.S. 116-17.2 reads as rewritten:

6 **"§ 116-17.2. Flexible Compensation Plan.**

7 Notwithstanding any other provisions of law relating to the salaries of employees of The
8 University of North Carolina, the Board of Governors of The University of North Carolina is
9 authorized to provide a plan of flexible compensation to eligible employees of constituent
10 institutions for benefits available under Section 125 and related sections of the Internal
11 Revenue Code of 1986 as amended. This plan shall not include those benefits provided to
12 employees under Articles 1, 3, 3B, and 6 of Chapter 135 of the General Statutes nor any
13 vacation leave, sick leave, or any other leave that may be carried forward from year to year by
14 employees as a form of deferred compensation. If a plan of flexible compensation is offered,
15 then a TRICARE supplement shall be offered. In providing a plan of flexible compensation, the
16 Board of Governors may authorize constituent institutions to enter into agreements with their
17 employees for reductions in the salaries of employees electing to participate in the plan of
18 flexible compensation provided by this section. With the approval of the Director of the
19 Budget, savings in the employer's share of contributions under the Federal Insurance
20 Contributions Act on account of the reduction in salary may be used to pay some or all of the
21 administrative expenses of the program. Should the Board of Governors decide to contract with
22 a third party to administer the terms and conditions of a plan of flexible compensation as
23 provided by this section, it may select such a contractor only upon a thorough and completely
24 advertised competitive procurement process."

25 **SECTION 4.** G.S. 126-95(b) reads as rewritten:

26 "(b) Notwithstanding any other provisions of law relating to the salaries of officers and
27 employees of departments, institutions, and agencies of State government, the Director of the
28 Budget may provide a plan of flexible compensation to eligible officers and employees of State
29 departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for
30 benefits available under section 125 and related sections of the Internal Revenue Code of 1986,
31 as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to
32 employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1,
33 3, 3B, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include
34 offerings for products and benefits that are supplemental or additional to these statutory
35 benefits. If a plan of flexible compensation is offered, then a TRICARE supplement shall be
36 offered. In providing a plan of flexible compensation, the Director of the Budget may authorize
37 State departments, institutions, and agencies to enter into agreements with their employees for
38 reductions in the salaries of employees electing to participate in the plan of flexible
39 compensation provided by this section. With the approval of the Director of the Budget,
40 savings in the employer's share of contributions under the Federal Insurance Contributions Act
41 on account of the reduction in salary may be used to pay some or all of the administrative
42 expenses of the program. Should the Director of the Budget decide to contract with a third
43 party to administer the terms and conditions of a plan of flexible compensation as provided by
44 this section, it may select such a contractor only upon a thorough and completely advertised
45 competitive procurement process."

46 **SECTION 5.** Any State entity that decides to offer a TRICARE supplement option
47 shall use a competitive bid process to award contracts to any third-party provider. The NC Flex
48 plan administered by the Office of State Personnel shall offer a TRICARE supplement no later
49 than January 1, 2015.

50 **SECTION 6.** This act is effective when it becomes law.



HOUSE BILL 161: Mandatory Retirement Age for Magistrates

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Reps. Glazier, McGrady, Jordan
Analysis of: Third Edition

Date: June 24, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 161 establishes a mandatory retirement age for magistrates by prohibiting magistrates from continuing in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice (currently age 72).*

CURRENT LAW:

G.S. 7A-4.20 provides that no justice or judge of the General Court of Justice may continue in office beyond the last day of the month in which the judge turns seventy-two, but justices and judges so retired may be recalled for periods of temporary service. Currently, there is no mandatory retirement age for magistrates.

BILL ANALYSIS:

House Bill 161 would prohibit magistrates from continuing in office beyond the last day of the month in which the magistrate reaches the mandatory retirement age for justices and judges of the General Court of Justice (currently age 72).

EFFECTIVE DATE: The act becomes effective January 1, 2015, and applies to individuals whose terms of office as magistrates begin on or after the effective date.

O. Walker Reagan
Director



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Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 161
Committee Substitute Favorable 3/6/13
Third Edition Engrossed 3/19/13

Short Title: Mandatory Retirement Age for Magistrates.

(Public)

Sponsors:

Referred to:

February 28, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A MANDATORY RETIREMENT AGE FOR MAGISTRATES.
3 The General Assembly of North Carolina enacts:

4 SECTION 1. G.S. 7A-170 reads as rewritten:
5 "**§ 7A-170. Nature of office and ~~oath~~; age limit for service.**

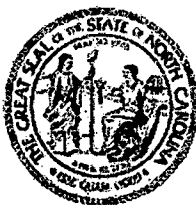
6 (a) A magistrate is an officer of the district court. Before entering upon the duties of his
7 office, a magistrate shall take the oath of office prescribed for a magistrate of the General Court
8 of Justice. A magistrate possesses all the powers of his office at all times during his term.

9 (b) No magistrate may continue in office beyond the last day of the month in which the
10 magistrate reaches the mandatory retirement age for justices and judges of the General Court of
11 Justice specified in G.S. 7A-4.20."

12 SECTION 2. This act becomes effective January 1, 2015, and applies to
13 individuals whose terms of office as magistrates begin on or after the effective date.



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HOUSE BILL 176: Charter School Election

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Rep. Alexander
Analysis of: First Edition

Date: June 24, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 176 authorizes another opportunity for the Board of Directors of Corvian Community School to elect to participate in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. (Corvian Community School is a charter school located in Charlotte.)*

CURRENT LAW:

G.S. 135-5.3 outlines provisions for charter schools operated by private nonprofit corporations to participate in the Teachers' and State Employees' Retirement System. G.S. 135-5.3(b) provides that no later than 30 days after both parties have signed the written charter, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System. The election shall be in writing and filed with the Retirement System and the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service.

G.S. 135-48.54 outlines provisions for charter schools operated by private nonprofit corporations to participate in the State Health Plan for Teachers and State Employees (Plan). G.S. 135-48.54(b) provides that no later than 30 days after both parties have signed the written charter, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan. The election shall be in writing and filed with the Plan and the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service.

BILL ANALYSIS:

House Bill 176 authorizes another opportunity for the Board of Directors of Corvian Community School, located in Charlotte, to elect to participate in the Teachers' and State Employees' Retirement System and the State Health Plan for Teachers and State Employees. The bill requires that these elections be made no later than 30 days after the effective date of the act and in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-48.54.

EFFECTIVE DATE:

House Bill 176 would become effective when it becomes law.

O. Walker Reagan
Director



Research Division
(919) 733-2578

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

1

HOUSE BILL 176

Short Title: Charter School Election.

(Public)

Sponsors: Representative Alexander (Primary Sponsor).

For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Education, if favorable, Finance.

February 28, 2013

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CORVIAN COMMUNITY SCHOOL, AN EXISTING
CHARTER SCHOOL, TO ELECT TO PARTICIPATE IN THE TEACHERS' AND
STATE EMPLOYEES' RETIREMENT SYSTEM AND THE STATE HEALTH PLAN
FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. Notwithstanding the time limitation contained in G.S. 135-5.3 and G.S. 135-48.54, the Board of Directors of Corvian Community School, a charter school located in Charlotte, may elect to become a participating employer in the Teachers' and State Employees' Retirement System in accordance with Article 1 of Chapter 135 of the General Statutes and may also elect to become a participating employing unit in the State Health Plan for Teachers and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The elections authorized by this act shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-5.3 and G.S. 135-48.54.

SECTION 2. This act is effective when it becomes law.



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VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2013

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Elizabeth Marrett	Gov's Office
Cheryl Kandish	AP
Solnei	04
Paul Hoffman	Inform
TJ Brubee	NP
Matt McCall	DHHS
John Balaban	Gov Off
Doug Lassiter	NCSA
Paul Meyer	NCLM

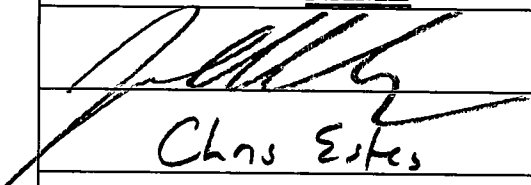


VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2013

Date

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Susan Kluttz	DCR
Neal Chapman	OSP
CTJ/Tara	DOT
Alicia Was	DHHS
Ardis Watkins	SEANC
 Justin Delancey	SEAN
Deana Fleming	NC DOL
Mildred Spearman	AOC/GAL
	NCAAC
 Ryan Combs	NCAAC
Adam Pridmore	NC DPS
Kathleen Joyce	NCAHA
Mary Beth	NCAHA
Leah Bourne	PARA-NC
	GOV'S office

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2013

Date

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Aminda Hbrake	TSS
Deb Gary	NCSP
Adam Sholar	DHHS
Bill Roughton Jr	DOA
Muir Judd	XL Eater
TFV Leamen	DST
Sarah L Miller	self
Dan Barker	School 7 bar
Sam Wray	NC Dept of Justice
Steve Tull	RSI
Ed Brinson	NCSFA
Paul Miller	II
Sally Sel	ND
Johanna Reese	NCACC
Dylan Vandy	Smith A
Martha Jenkins	DOR

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2013

Date

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<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Carl Dean	OSP
Cindy Bizzell	AOC - Guardian ad Litem
Jonathan Owens	SEANC
Josh McLean	SEANC
Jarret Burr	NCDPS
John Skvarla	NC DENR
Ned Robbins	NC DENR
Carr McLamb	"
Stephen Koubas	Compass
Laura DeVivo	WCSR
Seiko Okada	WCSR
Peter Webb	WCSR
Casey Burns	WCSR
Sarah Core	WCSR
Jordan Paschal	Intern Rep. Hamilton
Pam Heardorff	NCRSP
Mitch Leonard	SEANC

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2013

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Karin Cochran	DCR
Paula Woodhouse	OSP
T. Friedman	OST
M.F. BYRNE	RETIRED DHAS
MICHAEL BYRNE	Atty
Peston Jones	Gov Office
Nicole M. Hines	Gov Office
Ellis Boyle	DPS
Rhonda Todd	DOA
David Holbrook	NCAHS
Denny Liebowitz	ITS
Bill McFee	DS Treas
Fred Steen	Gov's Office
TYLER NEWMAN	CITY OF WILMINGTON
John Patten	NCHRP
Julian Mann	Office of Admin Hearings
F. Bassett	NCHRP

VISITOR REGISTRATION SHEET

Pensions & Retirement and Aging

7/25/2012
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE
CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
JOHN MIDGEATE	NC PBA
Beverley Moriarty	CRH (DHHS) UE150
dante strabino	UE150, NC Public Service Workers Union
Darvion Smith	UE150 NC Public Service Workers Union
Ariel Smith	Concerned citizen
Fudore	Born: 1950
Toni Davis	SEANC

Senate Committee on Pensions & Retirement and Aging
Wednesday, June 26, 2013, 10:00 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 327	Fire and Rescue Pension Revisions of 2013.-AB	Representative Howard Representative Elmore Representative Hager Representative Turner
HB 357	Retirement Governance Changes Act of 2013.-AB	Representative Moffitt Representative Howard Representative W. Brawley Representative Collins
HB 358	Retirement Technical Corrections.-AB	Representative Moffitt Representative Blust Representative Warren Representative Collins
HB 359	Retirement Administrative Changes Act of 2013.	Representative Moffitt Representative Blust Representative Warren Representative Collins
HB 232	State Health Plan/Statutory Changes.-AB	Representative Dockham

Presentations

Other Business

Adjournment

Senate Committee on Pensions & Retirement and Aging
Wednesday, June 26, 2013 at 10:00 AM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 10:00 AM on June 26, 2013 in Room 1027/1128 of the Legislative Building. Six of Ten members were present. Members of the Sargeant-at-Arms: Charles Marsalis, Ken Kirby, Robert Young, and Canton Lewis.

Pages: Dana Walker of Chapel Hill (Sen. Kinnaird); Rebekah Howard of Garner (Sen. Jackson); Grant Murphy Herndon of Durham (Woodard); Garrett Barlow of Boone (Soucek); Victoria Fahnestock of Rocky Mount (Bryant).

Senator Tom Apodaca, Chair, presided.

H327: Fire and Rescue Pension Revisions of 2013- AB. Sponsor: Rep. Howard, Elmore, Hager, and Moffitt. Howard explained the bill. No questions from nonmembers. Sen. Hise moved for Unfavorable as to the Bill, Favorable as to the Senate Committee Substitute with the referral to Appropriations. The motioned carried.

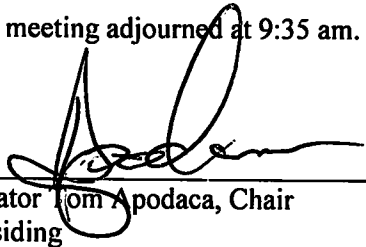
H357: Retirement Governance Changes Act of 2013-AB. Sponsors Rep. Moffitt, Howard, W.Brawley. Sen. Barefoot explained the bill, there was no discussion, and Sen. Walters moved for an Unfavorable as to the Bill, Favorable as to the Senate Committee Substitute. The motion carried.

H358: Retirement Technical Corrections-AB. Sponsors Rep. Moffitt, Blust, Warren, and Collins. Sen. Barefoot explained the bill. Sen. Gunn moved for a Favorable as to the Bill. The motion carried.

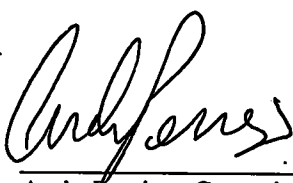
H359: Retirement Administrative Changes-AB. Sponsors Rep. Moffitt, Blust, Warren, and Collins. FRD staff Mr. Stanley Moore explained the bill. There was a technical amendment for the purpose of changing the long title of the bill to better reflect the PCS. Sen. Randleman motioned to adopt the amendment, motion carried. After there were no discussions on the bill, Sen. Randleman motioned Unfavorable as to the Bill, Favorable as to the Senate Committee Substitute-as amended. The motion carried.

H232: State Health Plan/Statutory Changes-AB. Sponsor Rep. Dockham. FRD staff, David Vanderweide presented. After no questions, Sen. McLaurin motioned for a Unfavorable as to the Bill, Favorable as to the Senate Committee Substitute.

The meeting adjourned at 9:35 am.



Senator Tom Apodaca, Chair
Presiding



Andy Ferrigo, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Wednesday, June 26, 2013

Senator Apodaca,
submits the following with recommendations as to passage:

FAVORABLE

HB 358 (CS#1)	Retirement Technical Corrections.-AB
	Draft Number: None
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 357 (CS#1)	Retirement Governance Changes Act of 2013.-AB
	Draft Number: H357-PCS80396-LL-22
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 2, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 232 (CS#2)	State Health Plan/Statutory Changes.-AB
	Draft Number: H232-PCS80393-SH-23
	Sequential Referral: None
	Recommended Referral: None
	Long Title Amended: No

HB 327 (CS#2)	Fire and Rescue Pension Revisions of 2013.-AB
	Draft Number: H327-PCS80394-SH-25
	Sequential Referral: Appropriations/Base Budget
	Recommended Referral: None
	Long Title Amended: No

TOTAL REPORTED: 4



PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT
Wednesday, June 26, 2013

PAGE 2

Senator John Barefoot will handle HB 358
Senator John Barefoot will handle HB 357
Senator Ralph Hise will handle HB 232
Senator Ralph Hise will handle HB 327



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**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Wednesday, June 26, 2013

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE BILL NO. 1, BUT FAVORABLE AS TO
SENATE COMMITTEE SUBSTITUTE BILL**

HB 359 (CS#1)

Retirement Administrative Changes Act of 2013-AB

Draft Number: H359-PCS70475-SH-26

Sequential Referral: Appropriations/Base Budget

Recommended Referral: None

Long Title Amended: Yes

TOTAL REPORTED: 1

Senator John Barefoot will handle HB 359



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HOUSE BILL 327: Fire and Rescue Pension Revisions of 2013.-AB

2013-2014 General Assembly

Committee:	Senate Ref to Pensions & Retirement and Aging. If fav, re-ref to Appropriations/Base Budget	Date:	June 21, 2013
Introduced by:	Reps. Howard, Elmore, Hager, Turner	Prepared by:	Theresa Matula
Analysis of:	PCS to Third Edition H327-CSSH-25		Committee Staff

SUMMARY: *House Bill 327 updates and modernizes a number of references in the Firemen's and Rescue Squad Worker's Pension Fund, establishes an advisory board for the Fund but transfers authority for the Fund to the Local Governmental Employees' Retirement System Board of Trustees, and prohibits a member from collecting benefits if convicted of certain felonies under certain situations.*

The PCS only corrects an incorrect statutory reference in Section 2(c).

[As introduced, this bill was identical to S304, as introduced by Sens. Meredith, Newton, which is currently in Senate Pensions & Retirement and Aging.]

CURRENT LAW:

Provisions for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund are provided in Article 86 of Chapter 58 of the General Statutes.

BILL ANALYSIS:

Section 1(a) amends Article 86 which currently provides for the North Carolina Firemen's and Rescue Squad Workers' Pension Fund. The title of the Article is changed from "Firemen's" to "Firefighters". Section 1(a) makes the changes outlined below.

§ 58-86-1 contains amendments changing "firemen" to "firefighters" which conforms to other changes throughout the bill. The amendments also include a technical change of "fire fighting" to one word, "firefighting".

§ 58-86-2 is a newly created definitions section providing definitions for the following terms: board, chair, director, eligible fire department, eligible firefighter, eligible rescue or emergency medical services squad, eligible rescue squad worker, fully credited service, inactive member, member, pension fund, training sessions for eligible rescue squad workers, and training sessions for eligible firefighters.

§ 58-86-5 which provided for a board of trustees is deleted and § 58-86-6 is created to provide for the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel. The advisory panel consists of the following seven persons:

- Director of the Retirement Systems Division, or designee, who shall act as chair;
- Designee of the State Insurance Commissioner;
- Five members to be appointed by the Board of Trustees of the Local Governmental Employees Retirement System (LGERS): one paid firefighter, one volunteer firefighter, one

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paid rescue squad worker, one volunteer rescue squad worker, and one member representing the public at large. These five members will serve four year terms.

Those serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the expiration of their current terms.

§ 58-86-10, 11, and 15 requires the NC Local Governmental Employees' Retirement System (LGERS) Board of Trustees to administer the Firefighters' and Rescue Squad Workers' Pension Fund. The advisory panel created in § 58-86-6 must meet at least annually, has no administrative authority, and is required to prepare an annual report to the LGERS Board of Trustees regarding the status and needs of the Pension Fund. § 58-86-15 which provided for a Director of the Pension Fund, is deleted.

§ 58-86-25 is amended to provide that "eligible firefighters" as defined in § 58-86-2(5) must attend 36 hours of training sessions in each calendar year as determined and reported by each eligible fire department to the NC State Firemen's Association. The Association must provide the list to the State Treasurer by January 31 of each year. An eligible firefighter may not also qualify as an "eligible rescue squad worker" in order to receive double benefits.

§ 58-86-30 makes amendments for "eligible rescue squad worker" similar to those made in §58-86-25.

§ 58-86-35 and 40 provide that firefighters and rescue squad workers who are members of the fund must pay \$10 per month and that each payment must be made no later than March 31 subsequent to the end of the calendar year in which the month occurred. The amendments specify that the fund shall not award fully credited service based on payments received later than March 31, except as provided in § 58-86-45 (a1) when purchasing credit.

§ 58-86-45 changes include a deletion of subsection (a) which allowed an eligible individual that had not elected membership to make application on or before March 31, 2001. Provides that lump sum payments to purchase service not otherwise creditable applies, among other things, to all purchases of service credits for months when timely payments were not made pursuant to G.S. 58-86-35 or G.S. 58-86-40. Subsection (b) is amended to specify that the board must receive advice from an actuary when setting the annual rate of interest for retroactive payments.

§ 58-86-55 makes conforming changes to "firefighter" and makes another gender neutral language change.

§ 58-86-60 makes conforming changes to "firefighter" and changes "Widow" to "surviving spouse". The amendments allow the board to make a lump sum payment of all moneys without accumulated earnings on the payments after the time they were made to any member who withdraws from the fund. (Previously the member had to have five or more years of contributing service.) Also specifies that a member may not purchase time for which he or she has received a refund.

§ 58-86-75 and 80 contain conforming changes. § 58-86-91 which allowed deductions for certain employee or retiree associations is deleted.

§ 58-86-95 allows a member who resigns to withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence due to active military service or other reasons.

Sections 1(b), (c), (d), (e) and (f) of the bill make the gender neutral conforming change to reference "firefighters" in various sections of the General Statutes that pertain to the Fund.

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Section 2(a) adds a new section to the Pension Fund related to forfeiture of benefits for certain felonies. The new section is similar to S. L. 2012-193 (House Bill 153) which prohibits public retirement for convicted felons under certain situations. This new statutory section, G.S. 58-86-100, prohibits the Board from paying retirement benefits or allowances, except for a return of member contributions, to any member convicted of a felony under federal law or the laws of the State if:

1. The offense is committed while the member is not yet 55 years of age or has not received 30 years of fully credited service, or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant.
2. The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad workers and brings disrepute on a fire department or rescue squad.

Section 2(b) makes a conforming change to G.S. 15A-1340.16(d) to add to the list of aggravating factors under structured sentencing, a defendant who is a firefighter or rescue squad worker and commits an offense directly related to services as a firefighter or rescue squad worker.

Section 2(c) further amends § 58-86-95 to add a subsection which conforms to the changes in Section 1(a) pertaining to forfeiture of benefits when convicted of an offense listed in G.S. 58-86-100.

Section 3 conforms the forfeiture provisions in this bill to Section 17 contained in S.L. 2012-193. This section directs the State Treasurer to enter into a memorandum of agreement with the U.S. Attorneys of the Eastern, Middle and Western Districts to provide a procedure for notifying the Treasurer of convictions of federal law that would trigger loss of retirement benefits if prosecuted under State law.

EFFECTIVE DATE: Section 2 of House Bill 327, containing the benefit forfeiture provisions, becomes effective December 1, 2013 and applies to offenses committed on or after that date. The remainder of the bill would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 327
Committee Substitute Favorable 4/18/13
Committee Substitute #2 Favorable 4/30/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H327-CSSH-25 [v.2]
6/24/2013 3:33:08 PM

Short Title: Fire and Rescue Pension Revisions of 2013.-AB

(Public)

Sponsors:

Referred to:

March 19, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO MODERNIZE, UPDATE, AND CLARIFY THE STATUTES GOVERNING
3 THE FIREMEN'S AND RESCUE SQUAD WORKERS' PENSION FUND BY ADDING
4 A DEFINITION SECTION TO THE STATUTES, TO REPEAL ARCHAIC AND
5 UNNECESSARY PROVISIONS, TO MAKE THE PROVISIONS GENDER NEUTRAL,
6 TO ELIMINATE THE BOARD OF TRUSTEES WHILE TRANSFERRING ITS
7 AUTHORITY TO THE BOARD OF TRUSTEES OF THE LOCAL GOVERNMENTAL
8 EMPLOYEES' RETIREMENT SYSTEM, TO ESTABLISH A FIREFIGHTERS' AND
9 RESCUE SQUAD WORKERS' ADVISORY PANEL, TO PROHIBIT CERTAIN
10 FELONS FROM PARTICIPATING IN THE FUND, AND TO ESTABLISH AN
11 AGGRAVATING FACTOR FOR DEFENDANTS WHO COMMIT OFFENSES
12 DIRECTLY RELATED TO THEIR SERVICE AS FIREFIGHTERS OR RESCUE
13 SQUAD WORKERS.

14 The General Assembly of North Carolina enacts:

15 SECTION 1.(a) Article 86 of Chapter 58 of the General Statutes reads as
16 rewritten:

17 "Article 86.

18 "North Carolina ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund.

19 "§ 58-86-1. Fund established; administration by board of trustees; rules and regulations.

20 For the purpose of furthering the general welfare and police powers and obligations of the
21 State with respect to the protection of all its citizens from the consequences of loss or damage
22 by fire and of injury by serious accident or illness, of increasing the protection of life and
23 property against loss or damage by fire, of improving ~~fire-fighting~~ firefighting and life saving
24 techniques, of increasing the potential of fire departments, rescue squads, organizations and
25 groups, of fostering increased and more widely spread training of personnel of these
26 organizations and groups, and of providing incentive and inducement to participate in fire
27 prevention, ~~fire-fighting~~ firefighting and rescue squad activities and for the establishment of
28 new, improved or extended fire departments, rescue squads, organizations and groups to the
29 end that ultimately all areas of the State and all of its citizens will receive the benefits of fire
30 protection and rescue squads' activity and a resulting reduction of loss or damage to life and
31 property by fire hazard or injury by serious accident or illness, and in recognition of the public
32 service rendered to the State of North Carolina and its citizens by "eligible ~~firemen~~ firefighters
33 and rescue squad workers," as defined by this Article, there is created in this State a fund to be



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known, and designated as "The North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund" to be administered as provided in this Article.

The North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund is established to provide pension allowances and other benefits for eligible ~~firemen-firefighters~~ and rescue squad workers in the State who elect to become members of the fund. The board of trustees created by this Article shall have authority to administer the fund and shall make necessary rules and regulations to carry out the provisions of this Article.

"§ 58-86-2. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) "Board" means the Board of Trustees of the Local Governmental Employees' Retirement System.
- (2) "Chair" means the chair of the Board of Trustees of the Local Governmental Employees' Retirement System.
- (3) "Director" means the Director of the Retirement Systems Division of the North Carolina Department of State Treasurer. The Director shall promptly transmit to the State Treasurer all moneys collected on behalf of members, which moneys shall be deposited by the State Treasurer into the fund.
- (4) "Eligible fire department" means a bona fide fire department which is certified to the Commissioner of Insurance by the governing body thereof, and determined as classified as not less than class "9S," and said fire department holds training sessions not less than four hours monthly.
- (5) "Eligible firefighter" means all persons 18 years of age or older who are firefighters of the State of North Carolina or any political subdivision thereof, including those performing such functions in the protection of life and property through firefighting within a county or city governmental unit. "Eligible firefighter" shall also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county. "Eligible firefighter" shall also mean those persons meeting the other qualifications of this Article, not exceeding 25 volunteer firefighters plus one additional volunteer firefighter per 100 population in the area served by their respective departments.
- (6) "Eligible rescue or emergency medical services squad" means organized rescue squad units eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc.
- (7) "Eligible rescue squad worker" means all persons 18 years of age or older who are members of a rescue or emergency medical services squad that is eligible for membership in the North Carolina Association of Rescue and Emergency Medical Services, Inc. "Eligible rescue squad worker" shall also mean those persons meeting the other qualifications of this Article.
- (8) "Fully credited service" means a period of time for which the Board has received certification that a member has met all eligibility requirements for participation in the Pension Fund and for which the Board has received timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40. In lieu of monthly payments under G.S. 58-86-35 or G.S. 58-86-40, a member may purchase fully credited service for any period of service as set forth in G.S. 58-86-45.
- (9) "Inactive member" means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is not making timely monthly payments under G.S. 58-86-35 or G.S. 58-86-40.

(10) "Member" means an eligible firefighter or eligible rescue squad worker who has elected to participate in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(11) "Pension Fund" means the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund.

(12) "Training sessions" for eligible rescue squad workers means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of rescue, emergency medical services, injury prevention, or protection of life and property. Such drill or training sessions held by the eligible rescue squad unit to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

(13) "Training sessions" for eligible firefighters means sessions in which attendance will result in the preparation of, or knowledge gained by, the member in the area of fire prevention, fire suppression, or protection of life and property. Such drill or training sessions held by the eligible fire department to meet the requirements of this Article shall be held for the purpose of providing a learning or preparation experience for the members.

~~"§ 58-86-5. Creation and membership of board of trustees; compensation.~~

~~There is created a board to be known as the "Board of Trustees of the North Carolina Firemen's and Rescue Squad Workers' Pension Fund", hereinafter known as "the board".~~

~~The board shall consist of six members:~~

~~(1) The State Treasurer, who shall act as chairman.~~

~~(2) The State Insurance Commissioner.~~

~~(3) Repealed by Session Laws 1993, c. 9.~~

~~(4) Four members to be appointed by the Governor; one a paid fireman, one a volunteer fireman, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. These members may succeed themselves.~~

~~The members presently serving on the "Board of Trustees of the Firemen's Pension Fund" shall continue to serve until the expiration of their terms. No member of the board shall receive any salary, compensation or expenses other than that provided in G.S. 138-6 for each day's attendance at duly and regularly called and held meetings of the board of trustees.~~

"§ 58-86-6. Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel.

There is created an advisory panel to be known as the Firefighters' and Rescue Squad Workers' Pension Fund Advisory Panel, hereinafter referred to as "the advisory panel."

The advisory panel shall consist of seven persons:

(1) The Director of the Retirement Systems Division of the North Carolina Department of State Treasurer or his or her designee, who shall act as chair.

(2) A designee of the State Insurance Commissioner.

(3) Five members to be appointed by the Board of Trustees of the Local Governmental Employees' Retirement System: one paid firefighter, one volunteer firefighter, one paid rescue squad worker, one volunteer rescue squad worker, and one representing the public at large, for terms of four years each. One member of the advisory panel appointed by the Board of Trustees of the Local Governmental Employees' Retirement System must be a member of that Board. Members of the advisory panel may succeed themselves if reappointed by the Board of Trustees of the Local Governmental Employees' Retirement System.

The persons serving on the Board of Trustees of the Firefighters' and Rescue Squad Workers' Pension Fund on June 30, 2013, may serve as members of the advisory panel until the

1 expiration of their current terms. No member of the advisory panel shall receive any salary,
2 compensation, or expenses other than that provided in G.S. 138-6 for each day's attendance at
3 duly and regularly called and held meetings of the advisory panel.

4 **"§ 58-86-10. Powers and duties of the board.**

5 The Board of Trustees of the North Carolina Local Governmental Employees' Retirement
6 System shall administer the Pension Fund. The board shall request appropriations out of the
7 general fund for administrative expenses and to provide for the financing of this pension fund,
8 employ necessary clerical assistance, determine all applications for pensions, provide for the
9 payment of pensions, make all necessary rules and regulations not inconsistent with law for the
10 government governance of this fund, prescribe rules and regulations of eligibility of persons to
11 receive pensions, expend funds in accordance with the provisions of this Article, and generally
12 exercise all other powers necessary for the administration of the fund created by this Article.

13 **"§ 58-86-11. Powers and duties of the advisory panel.**

14 The advisory panel shall meet at least once annually upon call of the chair. The advisory
15 panel shall have no administrative authority but shall prepare an annual report to the Board of
16 Trustees of the North Carolina Local Governmental Employees' Retirement System regarding
17 the status and needs of the North Carolina Firefighters' and Rescue Squad Workers' Pension
18 Fund.

19 **"§ 58-86-15. Director.**

20 ~~There is created an office to be known as Director of the North Carolina Firemen's and~~
21 ~~Rescue Squad Workers' Pension Fund. He shall be named by the board and shall serve at its~~
22 ~~pleasure. The director shall be subject to the provisions of the State Personnel Act. The director~~
23 ~~shall promptly transmit to the State Treasurer all moneys collected by him, which moneys shall~~
24 ~~be deposited by the State Treasurer into the fund.~~

25 **"§ 58-86-20. State Treasurer to be custodian of fund; appropriations; contributions to**
26 **fund; expenditures.**

27 The State Treasurer shall be the custodian of the North Carolina ~~Firemen's~~ Firefighters' and
28 Rescue Squad Workers' Pension Fund and shall invest its assets in accordance with the
29 provisions of G.S. 147-69.2 and G.S. 147-69.3. The appropriations made by the General
30 Assembly out of the general fund to provide money for administrative expenses shall be
31 handled in the same manner as any other general fund appropriation. One-fourth of the
32 appropriation made out of the general fund to provide for the financing of the pension fund
33 shall be transferred quarterly to a special fund to be known as the North Carolina ~~Firemen's~~
34 Firefighters' and Rescue Squad Workers' Pension Fund. There shall be set up in the State
35 Treasurer's office a special fund to be known as the North Carolina ~~Firemen's~~ Firefighters' and
36 Rescue Squad Workers' Pension Fund, and all contributions made by the members of this
37 pension fund shall be deposited in the special fund. All expenditures for refunds, investments or
38 benefits shall be in the same manner as expenditures of other special funds.

39 **"§ 58-86-25. ~~"Eligible firemen" defined; determination~~ Determination and certification**
40 **~~of volunteers meeting qualifications.~~ eligible firefighters.**

41 ~~"Eligible firemen" shall mean all firemen of the State of North Carolina or any political~~
42 ~~subdivision thereof, including those performing such functions in the protection of life and~~
43 ~~property through fire fighting within a county or city governmental unit and so certified to the~~
44 ~~Commissioner of Insurance by the governing body thereof, and who belong to a bona fide fire~~
45 ~~department which, as determined by the Commissioner, is classified as not less than class "9"~~
46 ~~or class "A" and "AA" departments in accordance with rating methods, schedules,~~
47 ~~classifications, underwriting rules, bylaws or regulations effective or applied with respect to the~~
48 ~~establishment of rates or premiums used or charged pursuant to Article 36 or 40 of this Chapter~~
49 ~~or by such other reasonable methods as the Commissioner may determine, and which operates~~
50 ~~fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more, and said~~
51 ~~fire department holds drills and meetings not less than four hours monthly and said firemen~~

1 attend at least 36 hours of all drills and meetings in each calendar year. "Eligible firemen" shall
2 also mean an employee of a county whose sole duty is to act as fire marshal, deputy fire
3 marshal, assistant fire marshal, or firefighter of the county, provided the board of county
4 commissioners of that county certifies the employee's attendance at no less than 36 hours of all
5 drills and meetings in each calendar year. "Eligible firemen" shall also mean those persons
6 meeting the other qualifications of this section, not exceeding 25 volunteer firemen plus one
7 additional volunteer fireman per 100 population in the area served by their respective
8 departments. Eligible firefighters must attend 36 hours of training sessions in each calendar
9 year. Each eligible fire department shall annually determine and report the names of those
10 firemen-firefighters meeting the eligibility qualifications of this section Article to its respective
11 governing body, which upon determination of the validity and accuracy of the qualification
12 shall promptly certify the list to the North Carolina State Firemen's Association. The Firemen's
13 Association shall provide a list of those persons meeting the eligibility requirements of this
14 section Article to the State Treasurer by January 31 of each year. For the purposes of the
15 preceding sentence, the governing body of a fire department operated: by a county is the county
16 board of commissioners; by a city is the city council; by a sanitary district is the sanitary
17 district board; by a corporation, whether profit or nonprofit, is the corporation's board of
18 directors; and by any other entity is that group designated by the board. An "eligible firefighter"
19 may not also qualify as an "eligible rescue squad worker" in order to receive double benefits
20 available under this Article.

21 **"§ 58-86-30. "Eligible rescue squad worker" defined; determination Determination and**
22 **certification of eligibility. "eligible rescue squad worker."**

23 "Eligible rescue squad worker" means a person who is a member of a rescue or emergency
24 medical services squad that is eligible for membership in the North Carolina Association of
25 Rescue and Emergency Medical Services, Inc., and who has attended a minimum of Eligible
26 rescue squad workers must attend at least 36 hours of training and meetings in the last sessions
27 in each calendar year. Each rescue or emergency medical services squad eligible for
28 membership in the North Carolina Association of Rescue and Emergency Medical Services,
29 Inc., must file a roster certified by the secretary of the association of those rescue or emergency
30 medical services squad workers meeting the requirements of this section with the State
31 Treasurer by January 31 of each calendar year.

32 "Eligible rescue squad worker" does not mean "eligible fireman" as defined by
33 G.S. 58-86-25, nor may an An "eligible rescue squad worker" may not qualify also as an
34 "eligible fireman-firefighter" in order to receive double benefits available under this Article.

35 **"§ 58-86-35. Firemen's-Firefighters' application for membership in fund; monthly**
36 **payments by members; payments credited to separate accounts of members;**
37 **termination of membership.**

38 Those ~~firemen-firefighters~~ who are eligible pursuant to G.S. 58-86-25 may make
39 application for membership to the board, apply to the board for membership. Each fireman
40 firefighter upon becoming a member of the fund shall pay the director of the fund the sum of
41 ten dollars (\$10.00) per month; each payment shall be made no later than 90 days after March
42 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund
43 shall not award fully credited service based on payments received later than March 31
44 subsequent to the end of the calendar year in which the month occurred unless the payment is
45 applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the
46 separate account of the member and shall be kept by the custodian so it is available for payment
47 on withdrawal from membership or retirement.

48 A member may elect to terminate membership in the fund at ~~anytime any time~~ and request
49 the refund of payments previously made to the fund. However, a member's delinquency in
50 making the monthly payments required by this section does not result in the termination of
51 membership without such an election by the member.

1 "§ 58-86-40. Rescue squad worker's application for membership in funds; monthly
2 payments by members; payments credited to separate accounts of members;
3 termination of membership.

4 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for
5 membership. Each eligible rescue squad worker upon becoming a member shall pay the
6 director of the fund the sum of ten dollars (\$10.00) per month; each payment shall be made no
7 later than ~~90 days after March 31~~ subsequent to the end of the calendar year in which the month
8 occurred. The Pension Fund shall not award fully credited service based on payments received
9 later than March 31 subsequent to the end of the calendar year in which the month occurred
10 unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be
11 credited to the separate account of the member and shall be kept by the custodian so it is
12 available for payment on withdrawal from membership or retirement.

13 A member may elect to terminate membership in the fund at ~~anytime~~ any time and request
14 the refund of payments previously made to the fund. However, a member's delinquency in
15 making the monthly payments required by this section does not result in the termination of
16 membership without such an election by the member.

17 "§ 58-86-45. Additional retroactive membership.

18 ~~(a) Any fireman or rescue squad worker who is now eligible and is a member of a fire~~
19 ~~department or rescue squad chartered by the State of North Carolina and who has not~~
20 ~~previously elected to become a member may make application through the board of trustees for~~
21 ~~membership in the fund on or before March 31, 2001. The person shall make a lump sum~~
22 ~~payment of ten dollars (\$10.00) per month retroactively to the time he first became eligible to~~
23 ~~become a member, plus interest at an annual rate of eight percent (8%), for each year of his~~
24 ~~retroactive payments. Upon making the lump sum payment, the person shall be given credit for~~
25 ~~all prior service in the same manner as if he had made application for membership at the time~~
26 ~~he first became eligible. Any member who made application for membership subsequent to the~~
27 ~~time he was first eligible and did not receive credit for prior service may receive credit for this~~
28 ~~prior service upon lump sum payment of ten dollars (\$10.00) per month retroactively to the~~
29 ~~time he first became eligible, plus interest at an annual rate of eight percent (8%), for each year~~
30 ~~of his retroactive payments. Upon making this lump sum payment, the date of membership~~
31 ~~shall be the same as if he had made application for membership at the time he was first eligible.~~
32 ~~Any fireman or rescue squad worker who has applied for prior service under this subsection~~
33 ~~shall have until June 30, 2001, to pay for this prior service and, if this payment is not made by~~
34 ~~June 30, 2001, he shall not receive credit for this service, except as provided in subsection (a1)~~
35 ~~of this section.~~

36 ~~(a1) Effective July 1, 1993, any fireman~~ Any firefighter or rescue squad worker who is a
37 current or former member of a fire department or rescue squad chartered by the State of North
38 Carolina may purchase credit for any periods of service to any chartered fire department or
39 rescue squad not otherwise creditable by making a lump sum payment to the Annuity Savings
40 Fund equal to the full liability of the service credits calculated on the basis of the assumptions
41 used for purposes of the actuarial valuation of the system's liabilities, which payment shall take
42 into account the retirement allowance arising on account of the additional service credit
43 commencing at the earliest age at which the member could retire on a retirement allowance, as
44 determined by the board of trustees upon the advice of the consulting actuary, plus an
45 administrative fee to be set by the board of trustees. This provision for the payment of a lump
46 sum for service "not otherwise creditable" shall apply, inter alia, to all purchases of service
47 credits for months as to which timely payments were not previously made pursuant to
48 G.S. 58-86-35 or G.S. 58-86-40, whichever is applicable.

49 (b) An eligible ~~fireman~~ firefighter or rescue squad worker who is not yet 35 years old
50 may apply to the board of trustees for membership in the fund at any time. Upon becoming a
51 member, the worker may make a lump sum payment of ten dollars (\$10.00) per month

1 retroactively to the time the worker first became eligible to become a member, plus interest at
2 an annual rate to be set by the board upon advice from actuary for each year of retroactive
3 payments. Upon making this lump sum payment, the worker shall be given credit for all prior
4 service in the same manner as if the worker had applied for membership upon first becoming
5 eligible.

6 A member who is not yet 35 years old may receive credit for the prior service upon making
7 a lump sum payment of ten dollars (\$10.00) for each month since the worker first became
8 eligible, plus interest at an annual rate to be set by the board for each year of retroactive
9 payments. Upon making this lump sum payment, the date of membership shall be the same as if
10 the worker had applied for membership upon first becoming eligible.

11 **"§ 58-86-55. Monthly pensions upon retirement.**

12 Any member who has served 20 years as an "eligible ~~fireman~~-firefighter" or "eligible
13 rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and
14 G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
15 pension from this fund. The monthly pension shall be in the amount of one hundred seventy
16 dollars (\$170.00) per month. Any retired ~~fireman~~-firefighter receiving a pension shall, effective
17 July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

18 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and
19 G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall
20 receive a pension prior to July 1, 1983. No member shall be entitled to a pension hereunder
21 until the member's official duties as a fireman or rescue squad worker for which the member is
22 paid compensation shall have been terminated and the member shall have retired as such
23 according to standards or rules fixed by the board of trustees.

24 A member who is totally and permanently disabled while in the discharge of the member's
25 official duties as a result of bodily injuries sustained or as a result of extreme exercise or
26 extreme activity experienced in the course and scope of those official duties and who leaves the
27 fire or rescue squad service because of this disability shall be entitled to be paid from the fund a
28 monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month beginning
29 the first month after the member's fifty-fifth birthday. All applications for disability are subject
30 to the approval of the board who may appoint physicians to examine and evaluate the disabled
31 member prior to approval of the application, and annually thereafter. Any disabled member
32 shall not be required to make the monthly payment of ten dollars (\$10.00) as required by
33 G.S. 58-86-35 and G.S. 58-86-40.

34 A member who is totally and permanently disabled for any cause, other than line of duty,
35 who leaves the fire or rescue squad service because of this disability and who has at least 10
36 years of service with the pension fund, may be permitted to continue making a monthly
37 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
38 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
39 a pension as provided by this section. All applications for disability are subject to the approval
40 of the board who may appoint physicians to examine and evaluate the disabled member prior to
41 approval of the application and annually thereafter.

42 A member who, because ~~his~~-the member's residence is annexed by a city under Part 2 or
43 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
44 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
45 General Statutes, or whose volunteer department is taken over by a city or county, and because
46 of such annexation or takeover is unable to perform as a ~~fireman~~-firefighter or rescue squad
47 worker of any status, and if the member has at least 10 years of service with the pension fund,
48 may be permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund
49 until the member has made contributions for a total of 240 months. The member upon attaining
50 the age of 55 years and completion of such contributions shall be entitled to receive a pension
51 as provided by this section. Any application to make monthly contributions under this section

1 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
2 member.

3 The pensions provided shall be in addition to all other pensions or benefits under any other
4 statutes of the State of North Carolina or the United States, notwithstanding any exclusionary
5 provisions of other pensions or retirement systems provided by law.

6 **"§ 58-86-60. Payments in lump sums.**

7 The board shall direct payment in lump sums from the fund in the following cases:

- 8 (1) To any ~~fireman~~firefighter or rescue squad worker upon the attaining of the
9 age of 55 years, who, for any reason, is not qualified to receive the monthly
10 retirement pension and who was enrolled as a member of the fund, an
11 amount equal to the amount paid into the fund by him. This provision shall
12 not be construed to preclude any active ~~fireman~~firefighter or rescue squad
13 worker from completing the requisite number of years of active service after
14 attaining the age of 55 years necessary to entitle ~~him~~the firefighter or rescue
15 squad worker to the pension.
- 16 (2) If any ~~fireman~~firefighter or rescue squad worker dies before attaining the
17 age at which a pension is payable to ~~him~~the firefighter or rescue squad
18 worker under the provisions of this Article, there shall be paid to his ~~widow,~~
19 or her surviving spouse, or if there be no ~~widow,~~surviving spouse, to the
20 person responsible for his or her child or children, or if there be no ~~widow~~
21 surviving spouse or children, then to his or her heirs at law as may be
22 determined by the board or to his or her estate, if it is administered and there
23 are no heirs, an amount equal to the amount paid into the member's separate
24 account by or on behalf of the said ~~fireman~~firefighter or rescue squad
25 worker.
- 26 (3) If any ~~fireman~~firefighter or rescue squad worker dies after beginning to
27 receive the pension payable to ~~him~~the firefighter or rescue squad worker by
28 this Article, and before receiving an amount equal to the amount paid into
29 the fund by ~~him,~~him or her, there shall be paid to his ~~widow,~~or her
30 surviving spouse, or if there be no ~~widow,~~surviving spouse, then to the
31 person responsible for his or her child or children, or if there be no ~~widow~~
32 surviving spouse or children, then to his or her heirs at law as may be
33 determined by the board or to his or her estate, if it is administered and there
34 are no heirs, an amount equal to the difference between the amount paid into
35 the member's separate account by or on behalf of the said ~~fireman~~firefighter
36 or rescue squad worker and the amount received by him or her as a
37 pensioner.
- 38 (4) Any member ~~with five or more years of contributing service and who~~
39 ~~withdraws from the fund shall, upon proper application, be paid all moneys~~
40 ~~without accumulated earnings on the payments after the time they were~~
41 ~~made. If any member who has less than five years of contributing service~~
42 ~~made contributions, or any person, firm, corporation, or other entity has~~
43 ~~made contributions on behalf of that member and that member withdraws~~
44 ~~from the fund, the member, person, firm, corporation, or other entity shall be~~
45 ~~entitled to a refund equal to the amount of contributions made by them after~~
46 ~~the Board has been notified of the contributor's desire to be refunded its~~
47 ~~contributions upon the member's withdrawal. A member may not purchase~~
48 time under G.S. 58-86-45 for which he or she has received a refund.

49 **"§ 58-86-65. Pro rata reduction of benefits when fund insufficient to pay in full.**

50 If, for any reason, the fund created and made available for any purpose covered by this
51 Article shall be insufficient to pay in full any pension benefits, or other charges, then all

benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

"§ 58-86-70. Provisions subject to future legislative change.

These pensions shall be subject to future legislative change or revision, and no member of the fund, or any person, is deemed to have acquired any vested right to a pension or other payment provided by this Article.

"§ 58-86-75. Determination of creditable service; information furnished by applicants for membership.

The board shall determine by appropriate rules and regulations the number of years' credit for service of ~~firemen~~-firefighters and rescue squad workers. ~~Firemen~~-Firefighters and rescue squad workers who are now serving as such shall furnish the board with information upon applying for membership as to previous service. Notwithstanding any other provisions of this Article, the Board may grant qualified prior service credits to eligible firemen and rescue squad workers under such terms and conditions that the Board may adopt when the Board determines that an eligible ~~fireman~~-firefighter or rescue squad worker has been denied such service credits through no fault of his or her own.

"§ 58-86-80. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.

A ~~fireman's~~-firefighter's or rescue squad worker's length of service shall not be affected by the fact that he or she may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the board.

"§ 58-86-90. Exemptions of pensions from attachment; rights nonassignable.

Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments or judgments against the ~~fireman~~-firefighter or rescue squad worker entitled to them, nor are any rights in the fund or the pensions or benefits assignable.

~~"§ 58-86-91. Deduction for payments to certain employees' or retirees' associations allowed.~~

~~Any member who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of deductions pursuant to this section shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.~~

"§ 58-86-95. Leaves of absence; inactive membership.

(a) Any member who resigns as an eligible firefighter or an eligible rescue squad worker, whichever is applicable, may withdraw from the fund and seek a refund under G.S. 58-86-60 or take a leave of absence as provided by G.S. 58-86-95, or he or she will be considered an inactive member.

(b) In order to take a leave of absence, any member not on active military service must provide the office of the director with written notice that the member is taking a leave of absence. Any member not on active military service on leave of absence for more than five years in any six-year period shall be considered an inactive member.

(c) A member is not eligible for service credit for the time he or she is on leave of absence and is not required to make monthly payments for that time. During the time a member is on leave of absence he or she is not eligible for benefits from the pension fund. A member who has taken a leave of absence may subsequently withdraw from the pension fund and seek a

refund under G.S. 58-86-60. If a member dies while he or she is on leave of absence, the appropriate person or persons may seek a refund under G.S. 58-86-60.

(d) Any member not on active military service who does not make contributions for two consecutive years and has not taken a leave of absence shall be considered an inactive member.

(e) The director of the pension fund shall communicate annually with each eligible fire department and eligible rescue or emergency medical services squad and transmit a list of those persons on a leave of absence. The director may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(f) The director of the pension fund shall maintain records of all inactive members of the fund, including dates of termination of service at an eligible fire department and eligible rescue or emergency medical services squad, and may consult with eligible fire departments and eligible rescue or emergency medical services squads with regard to the presumed status of members.

(g) Members on active military service must notify the director prior to commencement of active military service and subsequent to return from active duty and shall be granted a leave of absence for the entire time of the military service."

SECTION 1.(b) G.S. 25-9-406(i) reads as rewritten:

"(i) Inapplicability. – This section does not apply to an assignment of a health-care-insurance receivable. Subsection (f) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (f) of this section:

...

(4) North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes).

...."

SECTION 1.(c) G.S. 25-9-408(f) reads as rewritten:

"(f) Inapplicability. – Subsection (c) of this section does not apply to an assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, a right the transfer of which is prohibited or restricted by any of the following statutes to the extent that the statute is inconsistent with subsection (c) of this section: North Carolina Structured Settlement Act (Article 44B of Chapter 1 of the General Statutes); North Carolina Crime Victims Compensation Act (Chapter 15B of the General Statutes); North Carolina Consumer Finance Act (Article 15 of Chapter 53 of the General Statutes); North Carolina ~~Firemen's-Firefighters'~~ and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes); Employment Security Law (Chapter 96 of the General Statutes); North Carolina Workers' Compensation Fund Act (Article 1 of Chapter 97 of the General Statutes); and Programs of Public Assistance (Article 2 of Chapter 108A of the General Statutes)."

SECTION 1.(d) G.S. 147-69.2 reads as rewritten:

"§ 147-69.2. Investments authorized for special funds held by State Treasurer.

(a) This section applies to funds held by the State Treasurer to the credit of each of the following:

...

(6) The ~~Firemen's-Firefighters'~~ and Rescue Workers' Pension Fund.

...

(b) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (a) of this section in excess of the amount required to meet the current needs and demands on such funds. The State Treasurer may invest the funds as provided in this subsection. If an investment was authorized by this subsection at the time the investment was made or contractually committed to be made, then none of the percentage or other limitation on

investments set forth in this subsection shall be construed to require the State Treasurer to subsequently dispose of the investment or fail to honor any contractual commitments as a result of changes in market values, ratings, or other investment qualifications.

...
(8) With respect to assets of the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, and the Retiree Health Benefit Fund (hereinafter referred to collectively as the Retirement Systems), and assets invested pursuant to subdivision (b2) of this section, they may be invested in equity securities traded on a public securities exchange or market organized and regulated pursuant to the laws of the jurisdiction of such exchange or market and issued by any company incorporated or otherwise created or located within or outside the United States; provided the investments meet the conditions of this subdivision. The investments authorized for the Retirement Systems under this subdivision cannot exceed sixty-five percent (65%) of the market value of all invested assets of the Retirement Systems.

The assets authorized under this subdivision may be invested directly by the State Treasurer in any equity securities authorized by this subdivision for the primary purpose of approximating the movements of a nationally recognized and published market benchmark index. No more than one and one-half percent (1.5%) of the market value of the Retirement Systems' assets that may be invested directly under this subdivision can be invested in the stock of a single corporation, and the total number of shares in that single corporation cannot exceed eight percent (8%) of the issued and outstanding stock of that corporation.

So long as each investment manager has assets under management of at least one hundred million dollars (\$100,000,000), the assets authorized under this subdivision may also be invested through any of the following:

- a. Investment companies registered under the Investment Company Act of 1940; individual, common, or collective trust funds of banks and trust companies; and group trusts that invest primarily in investments authorized by this subdivision.
- b. Limited partnerships, limited liability companies, or other limited liability investment vehicles that are not publicly traded and invest primarily in investments authorized by this subdivision. Investments under this sub-subdivision shall not exceed six and one-half percent (6.5%) of the market value of all invested assets of the Retirement Systems.
- c. Contractual arrangements in which investment managers have full and complete discretion and authority to invest assets specified in such contractual arrangements in investments authorized by this subdivision."

SECTION 1.(e) G.S. 147-69.7(a) reads as rewritten:

"(a) The Treasurer shall discharge his or her duties with respect to the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, and the North Carolina

National Guard Pension Fund (hereinafter referred to collectively as the Retirement Systems) as follows:

- (1) Solely in the interest of the participants and beneficiaries.
- (2) For the exclusive purpose of providing benefits to participants and beneficiaries and paying reasonable expenses of administering the Retirement Systems.
- (3) With the care, skill, and caution under the circumstances then prevailing which a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose.
- (4) Impartially, taking into account any differing interests of participants and beneficiaries.
- (5) Incurring only costs that are appropriate and reasonable.
- (6) In accordance with a good-faith interpretation of the law governing the Retirement Systems."

SECTION 1.(f) G.S. 147-69.8 reads as rewritten:

"§ 147-69.8. Annual report on new investment authority.

Whenever the General Assembly broadens the investment authority of the State Treasurer as to the General Fund, the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the ~~Firemen's~~ Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, or any idle funds, the State Treasurer shall annually report in detail to the General Assembly the investments made under such new authority, including the returns on those investments, earnings, changes to value, and gains and losses in disposition of such investments. The report shall be made during the first six months of each calendar year, covering performance in the prior calendar year. As to each type of new investment authority, the report shall be made for at least four years."

SECTION 2.(a) Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-86-100. Forfeiture of retirement benefits for certain felonies that would bring disrepute on a fire department or rescue squad.

(a) Except as provided in G.S. 58-86-95(h), the Board of Trustees shall not pay any retirement benefits or allowances, except for a return of member contributions, to any member who is convicted of any felony under federal law or the laws of this State if all of the following apply:

- (1) The offense is committed while the member is not yet 55 years of age or has not yet received 20 years of fully credited service or while the member is 55 years of age or older and has 20 years of fully credited service but is still serving as a participant in an eligible fire department or eligible rescue squad.
- (2) The conduct resulting in the member's conviction is directly related to service as a firefighter or rescue squad worker and brings disrepute on a fire department or rescue squad.

(b) Subdivision (2) of subsection (a) of this section shall apply to felony convictions where the court finds under G.S. 15A-1340.16(d)(9a) or other applicable State or federal procedure that the offense is directly related to service as a firefighter or rescue squad worker.

(c) If a member or former member whose benefits under the System were forfeited under this section, except for the return of member contributions, subsequently receives an unconditional pardon of innocence or the conviction is vacated or set aside for any reason, then the member or former member may seek a reversal of the benefit forfeiture by presenting sufficient evidence to the State Treasurer. If the State Treasurer determines a reversal of the

1 benefit forfeiture is appropriate, then all benefits will be restored upon repayment of all
2 accumulated contributions. Repayment of all accumulated contributions that have been
3 received by the individual under the forfeiture provisions of this section must be made in a total
4 lump-sum payment. An individual receiving a reversal of benefit forfeiture must receive
5 reinstatement of the service credit forfeited."

6 SECTION 2.(b) G.S. 15A-1340.16(d) is amended by adding a new subdivision to
7 read:

8 "(9a) The defendant is a firefighter or rescue squad worker, and the offense is
9 directly related to service as a firefighter or rescue squad worker."

10 SECTION 2.(c) G.S. 58-86-95, as enacted by Section 1 of this act, reads as
11 rewritten:

12 "**§ 58-86-95. Leaves of absence; inactive ~~membership~~-membership; felony forfeiture.**

13 ...

14 (h) If a member who is in service and has not received 20 years of fully credited service
15 in this System on December 1, 2013, is convicted of an offense listed in G.S. 58-86-100 for
16 acts committed after December 1, 2013, then that member shall forfeit all benefits under this
17 System, except for a return of member contributions. If a member who is in service and has not
18 received 20 years of fully credited service in this System on December 1, 2013, is convicted of
19 an offense listed in G.S. 58-86-100 for acts committed after December 1, 2013, then that
20 member is not entitled to any fully credited service that accrued after December 1, 2013."

21 SECTION 3. S.L. 2012-193, Section 17, reads as rewritten:

22 "SECTION 17. The State Treasurer shall negotiate a memorandum of agreement with the
23 United States Attorneys for the Eastern, Middle, and Western Districts of North Carolina
24 whereby the prosecutors will notify the State Treasurer of convictions under
25 G.S. 135-18.10A(b), 128-38.4A(b), 135-75.1A(b), 120-4.33A(b), ~~135-5(h), and 135-5.1(h),~~
26 ~~135-5.4(h), and 58-86-100(b).135-5.4(h)."~~

27 SECTION 4. Section 2 of this act becomes effective December 1, 2013, and
28 applies to offenses committed on or after that date. The remainder of this act becomes effective
29 July 1, 2013.



HOUSE BILL 357: Retirement Governance Changes Act of 2013.-

2013-2014 General Assembly **AB**

Committee:	Senate Pensions & Retirement and Aging	Date:	June 25, 2013
Introduced by:	Reps. Moffitt, Howard, W. Brawley, Collins	Prepared by:	Theresa Matula
Analysis of:	PCS to Second Edition H357-CSLL-22		Committee Staff

SUMMARY: *House Bill 357 specifies the following: the Supplemental Retirement Board shall administer the North Carolina Public School Teachers' and Professional Educators' Investment Plan; the Board of Trustees of the Local Governmental Employees' Retirement System (LGERS) shall administer the Register of Deeds' Supplemental Pension Fund; the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS) shall administer the NC National Guard Pension; the Board of Trustees for the TSERS shall administer the Legislative Retirement System without direction from the Legislative Services Commission; the bill also adds an immunity section for the Supplemental Retirement Board of Trustees; and makes changes to the membership of the LGERS and TSERS Board of Trustees.*

The PCS corrects Section 4(b), makes technical changes in Section 5, and makes other technical corrections in the bill.

BILL ANALYSIS:

Section 1 of House Bill 357 amends G.S. 135-96 by adding responsibility for the North Carolina Public School Teachers' and Professional Educators' Investment Plan to the Supplemental Retirement Board of Trustees. It further authorizes the Board to retain the services of personnel possessing the specialized skills or knowledge necessary for the administration of programs by the Board. (The North Carolina Public School Teachers' and Professional Educators' Investment Plan was created in G.S. 115C-341.2 by S.L. 2011-310 (HB 730).)

Section 2 of the bill amends G.S. 161-50.1 to provide that the Board of Trustees of the Local Governmental Employees' Retirement System (LGERS), rather than the Department of State Treasurer, is responsible for administering the Register of Deeds' Supplemental Pension Fund Act of 1987.

Section 3 amends G.S. 127A-40 to provide that the Board of Trustees of the Teachers' and State Employees' Retirement System (TSERS), rather than the State Treasurer, will administer the provisions of the North Carolina National Guard Pension.

Section 4(a) amends G.S. 135-6(b) to decrease the Board of Trustees for the TSERS from 14 members to 13 members. Specific changes are made to the nine appointments made by the Governor and confirmed by the Senate including: decreasing from three to two the number of members who are not members of the teaching profession or State employees; removing a requirement that one of the members be an employee of the Board of Transportation appointed by the Governor; and adding a requirement that one member be an active or retired member of the NC National Guard appointed for a term of four years commencing July 1, 2013.

Section 4(b) amends G.S. 128-28(c) pertaining to the Board of Trustees of the LGERS by decreasing from seven to five the members of the TSERS Board that serve and by adding an active or retired

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House PCS 357

Page 2

member of the Firemen's and Rescue Squad Workers' Pension Fund designated by the Governor, which decreases the membership from 14 to 13.

Section 5 adds a new section, G.S. 135-97, to Article 5, Chapter 135, which pertains to Supplemental Retirement Income. The new section provides certain immunity for a person serving on the Supplemental Retirement Board of Trustees. Under the provision, a trustee is immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of service except when the person:

- was not acting within the scope of official duties;
- was not acting in good faith;
- committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- derived a direct or indirect improper personal financial benefit from the transaction;
- incurred the liability from the operation of a motor vehicle.

Section 6 amends G.S. 120-4.9 to provide that all direction and policies concerning the Legislative Retirement System is vested in the TSERS Board of Trustees, rather than the Legislative Services Commission.

Section 7 makes an amendment in G. S. 120-4.10 that conforms with the changes in Section 6 by removing references to the Legislative Services Commission and providing that the Board of Trustees of the TSERS has oversight for the Legislative Retirement System.

EFFECTIVE DATE: House Bill 357 would become effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 357
Committee Substitute Favorable 5/2/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H357-PCS80396-LL-22

Short Title: Retirement Governance Changes Act of 2013.-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED
AN ACT TO INCREASE CITIZEN OVERSIGHT AND TO MAKE OTHER
CONSOLIDATIONS AND IMPROVEMENTS IN THE GOVERNANCE OF THE
STATE RETIREMENT SYSTEMS, AND TO IMPROVE TRANSPARENCY BY
ENSURING THAT ALL RETIREMENT PLANS ADMINISTERED BY THE
DEPARTMENT OF STATE TREASURER ARE OVERSEEN BY A BOARD OF
TRUSTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-96 reads as rewritten:

"§ 135-96. Supplemental Retirement Board of Trustees.

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under ~~G.S. 143B-426.24~~ G.S. 143B-426.24, and the North Carolina Public School Teachers' and Professional Educators' Investment Plan established under G.S. 115C-341.2.

...

(e) The Board may retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs that the Board administers pursuant to this section."

SECTION 2. G.S. 161-50.1(b) reads as rewritten:

"(b) ~~The North Carolina Department of State Treasurer~~ Board of Trustees of the Local Governmental Employees' Retirement System shall administer the provisions of this Article."

SECTION 3. G.S. 127A-40 reads as rewritten:

"(f) The Board of Trustees of the Teachers' and State Employees' Retirement System shall administer the provisions of this section. The Secretary of Public Safety shall determine the eligibility of North Carolina National Guard members for the benefits provided in this section and shall certify those eligible to the ~~State Treasurer~~ Board of Trustees. In addition, the Department of Public Safety shall, on and after July 1, 1983, provide the ~~Department of State Treasurer~~ Board of Trustees with an annual census population, by age and the number of years of creditable service, for all former members of the North Carolina National Guard in receipt of a pension as well as for all active members of the North Carolina National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Public Safety shall also provide the ~~State Treasurer~~ a Board of Trustees an annual census population of all former members of the North Carolina National Guard who are



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not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund, which shall include general fund appropriations made to the Department of State Treasurer. The ~~Department of State Treasurer~~Board of Trustees shall have performed an annual actuarial valuation of the fund and shall have the financial responsibility for maintaining the fund on a generally accepted actuarial basis. The Department of Public Safety shall provide the Department of State Treasurer with whatever assistance is required by the State Treasurer in carrying out the State Treasurer's and the Board of Trustees' financial responsibilities."

SECTION 4.(a) G.S. 135-6(b) reads as rewritten:

"(b) Membership of Board; Terms. – The Board shall consist of ~~14~~13 members, as follows:

- (1) The State Treasurer, ex officio;
- (2) The Superintendent of Public Instruction, ex officio;
- (3) ~~Ten~~Nine members to be appointed by the Governor and confirmed by the Senate of North Carolina. One of the appointive members shall be a member of the teaching profession of the State; ~~one of the appointive members shall be an employee of the Board of Transportation, who shall be appointed by the Governor for a term of four years commencing April 1, 1947, and quadrennially thereafter;~~ one of the appointive members shall be a representative of higher education appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one of the appointive members shall be a retired teacher who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1969, and quadrennially thereafter; one shall be a retired State employee who is drawing a retirement allowance, appointed by the Governor for a term of four years commencing July 1, 1977, and quadrennially thereafter; one to be a general State employee, and ~~three~~two who are not members of the teaching profession or State employees; two to be appointed for a term of two years, two for a term of three years and one for a term of four years; one appointive member shall be a law-enforcement officer employed by the State, appointed by the Governor, for a term of four years commencing April 1, 1985. One member shall be an active or retired member of the North Carolina National Guard appointed by the Governor for a term of four years commencing July 1, 2013. At the expiration of these terms of office the appointment shall be for a term of four years;
- (4) Two members appointed by the General Assembly, one appointed upon the recommendation of the Speaker of the House of Representatives, and one appointed upon the recommendation of the President Pro Tempore of the Senate in accordance with G.S. 120-121. Neither of these members may be an active or retired teacher or State employee or an employee of a unit of local government. The initial members appointed by the General Assembly shall serve for terms expiring June 30, 1983. Thereafter, their successors shall serve for two-year terms beginning July 1 of odd-numbered years. Vacancies in appointments made by the General Assembly shall be filled in accordance with G.S. 120-122."

SECTION 4.(b) G.S. 128-28(c) reads as rewritten:

"(c) Members of Board. – The Board shall consist of (i) ~~seven~~five members of the Board of Trustees of the Teachers' and State Employees' Retirement System appointed under G.S. 135-6(b): the State Treasurer; the Superintendent of Public Instruction; the two members appointed by the General Assembly; and one of the ~~three~~two members appointed by the

Governor who are not members of the teaching profession or State employees; and (ii) ~~seven~~eight members designated by the Governor:

- (1) One member shall be a mayor or a member of the governing body of a city or town participating in the Retirement System;
- (2) One member shall be a county commissioner of a county participating in the Retirement System;
- (3) One member shall be a law-enforcement officer employed by an employer participating in the Retirement System;
- (4) One member shall be a county manager of a county participating in the Retirement System;
- (5) One member shall be a city or town manager of a city or town participating in the Retirement System;
- (6) One member shall be an active, Fair Labor Standards Act nonexempt, local governmental employee of an employer;~~and~~
- (7) One member shall be a retired, Fair Labor Standards Act nonexempt, local governmental employee of an ~~employer~~employer; ~~and~~
- (8) One member shall be an active or retired member of the Firemen's and Rescue Squad Workers' Pension Fund.

The Governor shall designate ~~seven~~eight members on April 1 of years in which an election is held for the office of Governor, or as soon thereafter as possible, and the ~~seven~~ eight members designated by the Governor shall serve on the Board in addition to the regular duties of their city, town, or county office: Provided, that if for any reason any member appointed pursuant to subdivisions (1) through (6) of this subsection vacates the city, town, or county office or employment which the member held at the time of this designation, the Governor shall designate another member to serve until the next regular date for the designation of members to serve on the Board."

SECTION 5. Article 5 of Chapter 135 of the General Statutes is amended by adding a new section to read:

"§ 135-97. Immunity.

A person serving on the Supplemental Retirement Board of Trustees shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of that service, except where any of the following apply:

- (1) The person was not acting within the scope of that person's official duties.
- (2) The person was not acting in good faith.
- (3) The person committed gross negligence or willful or wanton misconduct that resulted in the damages or injury.
- (4) The person derived an improper personal financial benefit, either directly or indirectly, from the transaction.
- (5) The person incurred the liability from the operation of a motor vehicle."

SECTION 6. G.S. 120-4.9 reads as rewritten:

"§ 120-4.9. Retirement system established.

A Retirement System is established and placed under the Board of Trustees of the Teachers' and State Employees' Retirement System for administrative purposes. This Retirement System is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply.

The Retirement System shall have all the power and privileges of a corporation and shall be known as the "Legislative Retirement System of North Carolina." By this name all of its business shall be transacted, all of its funds invested and all of its cash and securities and other

1 property held. All direction and policies concerning the Legislative Retirement System shall be
2 vested in the ~~Legislative Services Commission.~~ Board of Trustees.

3 Consistent with Section 401(a)(1) of the Internal Revenue Code, all member employee and
4 employer contributions to this Retirement System shall be made to funds held in trust through
5 trust instruments that have the purposes of distributing trust principal and income to retired
6 members and their beneficiaries and of paying other definitely determinable benefits under this
7 Chapter, after meeting the necessary expenses of administering this Retirement System. Neither
8 the trust corpus nor income from this trust can be used for purposes other than the exclusive
9 benefit of members or their beneficiaries, except that employer contributions made to the trust
10 under a good faith mistake of fact may be returned to an employer, where the refund can occur
11 within less than one year after the mistaken contribution was made, consistent with the rule
12 adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan
13 document, consisting of relevant statutory provisions in this Chapter, associated regulations in
14 the North Carolina Administrative Code, substantive and procedural information on the official
15 forms used by the Retirement System, and policies and minutes of the Board of Trustees."

16 **SECTION 7.** G.S. 120-4.10 reads as rewritten:

17 **"§ 120-4.10. Administration of retirement system.**

18 The Board of Trustees of the Teachers' and State Employees' Retirement System shall be
19 the trustee of the Retirement System, ~~under the direction of the Legislative Services~~
20 ~~Commission.~~ System. The provisions of this Article shall be administered by the Board of
21 Trustees, ~~under the direction of the Legislative Services Commission.~~ Trustees."

22 **SECTION 8.** This act becomes effective July 1, 2013.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

2

HOUSE BILL 357
Committee Substitute Favorable 5/2/13

Short Title: Retirement Governance Changes Act of 2013.-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE CITIZEN OVERSIGHT AND TO MAKE OTHER
3 CONSOLIDATIONS AND IMPROVEMENTS IN THE GOVERNANCE OF THE
4 STATE RETIREMENT SYSTEMS, AND TO IMPROVE TRANSPARENCY BY
5 ENSURING THAT ALL RETIREMENT PLANS ADMINISTERED BY THE
6 DEPARTMENT OF STATE TREASURER ARE OVERSEEN BY A BOARD OF
7 TRUSTEES.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 135-96 reads as rewritten:

10 "§ 135-96. Supplemental Retirement Board of Trustees.

11 (a) The Supplemental Retirement Board of Trustees is established to administer the
12 Supplemental Retirement Income Plan established under the provisions of this Article and the
13 North Carolina Public Employee Deferred Compensation Plan established under
14 G.S. 143B-426.24-G.S. 143B-426.24, and the North Carolina Public School Teachers' and
15 Professional Educators' Investment Plan established under G.S. 115C-341.2.

16 ...
17 (e) The Board may retain the services of independent appraisers, auditors, actuaries,
18 attorneys, investment counseling firms, statisticians, custodians, or other persons or firms
19 possessing specialized skills or knowledge necessary for the proper administration of
20 investment programs that the Board administers pursuant to this section."

21 SECTION 2. G.S. 161-50.1(b) reads as rewritten:

22 "(b) ~~The North Carolina Department of State Treasurer~~Board of Trustees of the Local
23 Governmental Employees' Retirement System shall administer the provisions of this Article."

24 SECTION 3. G.S. 127A-40 reads as rewritten:

25 "(f) The Board of Trustees of the Teachers' and State Employees' Retirement System
26 shall administer the provisions of this section. The Secretary of Public Safety shall determine
27 the eligibility of North Carolina National Guard members for the benefits provided in this
28 section and shall certify those eligible to the ~~State Treasurer~~Board of Trustees. In addition, the
29 Department of Public Safety shall, on and after July 1, 1983, provide the ~~Department of State~~
30 ~~Treasurer~~Board of Trustees with an annual census population, by age and the number of years
31 of creditable service, for all former members of the North Carolina National Guard in receipt of
32 a pension as well as for all active members of the North Carolina National Guard who are not
33 in receipt of a pension and who have seven and more years of creditable service. The
34 Department of Public Safety shall also provide the ~~State Treasurer~~a Board of Trustees an
35 annual census population of all former members of the North Carolina National Guard who are
36 not in receipt of a pension and who have 15 and more years of creditable service. The



1 Department of State Treasurer shall make pension payments to those persons certified from the
2 North Carolina National Guard Pension Fund, which shall include general fund appropriations
3 made to the Department of State Treasurer. The ~~Department of State Treasurer~~Board of
4 Trustees shall have performed an annual actuarial valuation of the fund and shall have the
5 financial responsibility for maintaining the fund on a generally accepted actuarial basis. The
6 Department of Public Safety shall provide the Department of State Treasurer with whatever
7 assistance is required by the State Treasurer in carrying out the State Treasurer's and the Board
8 of Trustees' financial responsibilities."

9 **SECTION 4.(a)** G.S. 135-6(b) reads as rewritten:

10 "(b) Membership of Board; Terms. – The Board shall consist of ~~14~~13 members, as
11 follows:

- 12 (1) The State Treasurer, ex officio;
- 13 (2) The Superintendent of Public Instruction, ex officio;
- 14 (3) ~~Ten~~Nine members to be appointed by the Governor and confirmed by the
15 Senate of North Carolina. One of the appointive members shall be a member
16 of the teaching profession of the State; ~~one of the appointive members shall~~
17 ~~be an employee of the Board of Transportation, who shall be appointed by~~
18 ~~the Governor for a term of four years commencing April 1, 1947, and~~
19 ~~quadrennially thereafter;~~ one of the appointive members shall be a
20 representative of higher education appointed by the Governor for a term of
21 four years commencing July 1, 1969, and quadrennially thereafter; one of
22 the appointive members shall be a retired teacher who is drawing a
23 retirement allowance, appointed by the Governor for a term of four years
24 commencing July 1, 1969, and quadrennially thereafter; one shall be a
25 retired State employee who is drawing a retirement allowance, appointed by
26 the Governor for a term of four years commencing July 1, 1977, and
27 quadrennially thereafter; one to be a general State employee, and ~~three~~two
28 who are not members of the teaching profession or State employees; two to
29 be appointed for a term of two years, two for a term of three years and one
30 for a term of four years; one appointive member shall be a law-enforcement
31 officer employed by the State, appointed by the Governor, for a term of four
32 years commencing April 1, 1985. One member shall be an active or retired
33 member of the North Carolina National Guard appointed by the Governor
34 for a term of four years commencing July 1, 2013. At the expiration of these
35 terms of office the appointment shall be for a term of four years;
- 36 (4) Two members appointed by the General Assembly, one appointed upon the
37 recommendation of the Speaker of the House of Representatives, and one
38 appointed upon the recommendation of the President Pro Tempore of the
39 Senate in accordance with G.S. 120-121. Neither of these members may be
40 an active or retired teacher or State employee or an employee of a unit of
41 local government. The initial members appointed by the General Assembly
42 shall serve for terms expiring June 30, 1983. Thereafter, their successors
43 shall serve for two-year terms beginning July 1 of odd-numbered years.
44 Vacancies in appointments made by the General Assembly shall be filled in
45 accordance with G.S. 120-122."

46 **SECTION 4.(b)** G.S. 128-28(c) reads as rewritten:

47 "(c) Members of Board. – The Board shall consist of (i) ~~seven~~six members of the Board
48 of Trustees of the Teachers' and State Employees' Retirement System appointed under
49 G.S. 135-6(b): the State Treasurer; the Superintendent of Public Instruction; the two members
50 appointed by the General Assembly; and one of the ~~three~~two members appointed by the

1 Governor who are not members of the teaching profession or State employees; and (ii) ~~seven~~
2 eight members designated by the Governor:

- 3 (1) One member shall be a mayor or a member of the governing body of a city
4 or town participating in the Retirement System;
- 5 (2) One member shall be a county commissioner of a county participating in the
6 Retirement System;
- 7 (3) One member shall be a law-enforcement officer employed by an employer
8 participating in the Retirement System;
- 9 (4) One member shall be a county manager of a county participating in the
10 Retirement System;
- 11 (5) One member shall be a city or town manager of a city or town participating
12 in the Retirement System;
- 13 (6) One member shall be an active, Fair Labor Standards Act nonexempt, local
14 governmental employee of an employer; ~~and~~
- 15 (7) One member shall be a retired, Fair Labor Standards Act nonexempt, local
16 governmental employee of an ~~employer-employer~~; and
- 17 (8) One member shall be an active or retired member of the Firemen's and
18 Rescue Squad Workers' Pension Fund.

19 The Governor shall designate ~~seven-six~~ members on April 1 of years in which an election is
20 held for the office of Governor, or as soon thereafter as possible, and the seven members
21 designated by the Governor shall serve on the Board in addition to the regular duties of their
22 city, town, or county office: Provided, that if for any reason any member appointed pursuant to
23 subdivisions (1) through (6) of this subsection vacates the city, town, or county office or
24 employment which the member held at the time of this designation, the Governor shall
25 designate another member to serve until the next regular date for the designation of members
26 to serve on the Board."

27 **SECTION 5.** Article 5 of Chapter 135 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 135-97. Immunity.**

30 A person serving on the Supplemental Retirement Board of Trustees shall be immune
31 individually from civil liability for monetary damages, except to the extent covered by
32 insurance, for any act or failure to act arising out of that service, except where the person:

- 33 (1) Was not acting within the scope of that person's official duties.
- 34 (2) Was not acting in good faith.
- 35 (3) Committed gross negligence or willful or wanton misconduct that resulted in
36 the damages or injury.
- 37 (4) Derived an improper personal financial benefit, either directly or indirectly,
38 from the transaction.
- 39 (5) Incurred the liability from the operation of a motor vehicle."

40 **SECTION 6.** G.S. 120-4.9 reads as rewritten:

41 **"§ 120-4.9. Retirement system established.**

42 A Retirement System is established and placed under the Board of Trustees of the Teachers'
43 and State Employees' Retirement System for administrative purposes. This Retirement System
44 is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code.
45 Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not
46 apply.

47 The Retirement System shall have all the power and privileges of a corporation and shall be
48 known as the "Legislative Retirement System of North Carolina." By this name all of its
49 business shall be transacted, all of its funds invested and all of its cash and securities and other
50 property held. All direction and policies concerning the Legislative Retirement System shall be
51 vested in the ~~Legislative Services Commission~~ Board of Trustees.

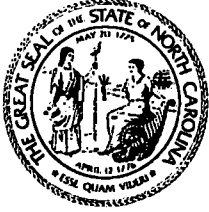
1 Consistent with Section 401(a)(1) of the Internal Revenue Code, all member employee and
2 employer contributions to this Retirement System shall be made to funds held in trust through
3 trust instruments that have the purposes of distributing trust principal and income to retired
4 members and their beneficiaries and of paying other definitely determinable benefits under this
5 Chapter, after meeting the necessary expenses of administering this Retirement System. Neither
6 the trust corpus nor income from this trust can be used for purposes other than the exclusive
7 benefit of members or their beneficiaries, except that employer contributions made to the trust
8 under a good faith mistake of fact may be returned to an employer, where the refund can occur
9 within less than one year after the mistaken contribution was made, consistent with the rule
10 adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan
11 document, consisting of relevant statutory provisions in this Chapter, associated regulations in
12 the North Carolina Administrative Code, substantive and procedural information on the official
13 forms used by the Retirement System, and policies and minutes of the Board of Trustees."

14 **SECTION 7.** G.S. 120-4.10 reads as rewritten:

15 **"§ 120-4.10. Administration of retirement system.**

16 The Board of Trustees of the Teachers' and State Employees' Retirement System shall be
17 the trustee of the Retirement System, ~~under the direction of the Legislative Services~~
18 ~~Commission System.~~ The provisions of this Article shall be administered by the Board of
19 ~~Trustees, under the direction of the Legislative Services Commission Trustees."~~

20 **SECTION 8.** This act becomes effective July 1, 2013.



HOUSE BILL 358: Retirement Technical Corrections.-AB

2013-2014 General Assembly

Committee:	Senate Pensions & Retirement and Aging	Date:	June 21, 2013
Introduced by:	Reps. Moffitt, Blust, Warren, Collins	Prepared by:	Theresa Matula
Analysis of:	Second Edition		Committee Staff

SUMMARY: *House Bill 358 makes primarily technical changes to the Teachers' and State Employees' Retirement System; North Carolina Disability Income Plan; Consolidated Judicial Retirement System; Legislative Retirement System; Local Governmental Employees' Retirement System; and the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act.*

BILL ANALYSIS:

Section 1 amends Article 12C of Chapter 143 and Article 12E of Chapter 143 pertaining to retirement benefits for State and local governmental law-enforcement officers. Sections 1(a) and (b) specifically amend G.S. 143-166.30(d) and G.S. 143-166.50(e) in the Supplemental Retirement Income Plan for State Law-Enforcement Officers, and the Supplemental Retirement Income Plan for Local Governmental Law-Enforcement Officers, to remove language limiting the total contributions to 10% of the participant's compensation within any calendar year.

Section 2 amends G.S. 128-26(a) to conform existing law to the Uniformed Services Employment and Reemployment Rights Act (USERRA) as it relates to the allowance for service in the Local Governmental Employees' Retirement System (LGERS). The change allows members retiring on or after July 1, 1971, and not otherwise granted credit for military service to be allowed credit for any period of qualifying service in the Armed Forces, as defined for purposed of reemployment rights under federal law, provided that the member meets the definition of an employee at the time they entered military service, and either (i) the returning member is in service with the employer by whom they were employed when they entered service, for a period of not less than 10 years after the member is separated or released from service under other than dishonorable conditions, or (ii) meets certain other conditions as specified in the bill.

Section 3 amends the definition for "Membership service" in the Teachers' and State Employees' Retirement System (TSERS) and LGERS to specify that "Membership service" includes membership service in a North Carolina Retirement System that has been transferred into the system.

Section 4 amends the TSERS, LGERS, and the Consolidated Judicial Retirement System (CJRS), to provide that "Retirement" means "the commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active services with no intent or agreement, expressed or implied, to return to service." Further, the changes generally specify the following for each system: In order for a member's retirement to become effective in any month, the member must perform no work, including part-time, temporary, substitute, or contractor work, at any time during the same month immediately following the effective first day (or "the effective date" for TSERS) of retirement.

Section 5 amends G.S. 135-5.1, to allow the Optional Retirement Program for The University of North Carolina to file individual election forms with the Retirement System using electronic transmission.

O. Walker Reagan
Director



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House Bill 358

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Section 6 amends G.S. 135-105(d) pertaining to short-term disability benefits in the Disability Income Plan (DIP) of North Carolina to specify that at conclusion of the short-term disability period, or upon termination of short-term disability benefits, the employer shall notify the Plan of the amount of State Health Insurance premiums paid by the employer.

Section 7 amends G.S. 135-106(d) pertaining to long-term disability benefits in the DIP, to specify that if a member elects an early service retirement, it would be effective with the first day of the month following the end of the short-term period.

Section 8 amends G.S. 135-111 in the DIP to remove G.S. 135-18.11(Improper receipt of decedent's retirement allowance or disability benefit) from applicability to the Article and to benefits paid. G.S. 135-18.11 was enacted in S.L. 2011-232 and amended in S.L. 2012-185. Section 9(a) of the bill adds a new section to address this issue.

Section 9 pertains to the laws regarding the improper receipt of decedent's retirement allowance and or Disability Income Plan allowance.

Section 9(a) adds G.S. 135-111.1 making it a Class 1 misdemeanor if a person, with the intent to defraud, receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's Disability Income Plan allowance and the person (i) knows they are not entitled to the allowance, (ii) received it for 2 months after the beneficiary's death, and (iii) does not inform the Retirement System of the beneficiary's death.

Section 9(b) amends G.S. 135-18.11 to conform to the change in 9(a) and remove reference to a decedent's monthly benefit under the DIP from the TSERS law on improper receipt of a decedent's retirement allowance.

Sections 9(c)-(e) amend the improper receipt of decedent's retirement allowance language in the LGERS, CJRS, and the Legislative Retirement System to include the beneficiary's death.

Section 10 amends G.S. 143-166.2(d) pertaining to the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act to clarify that the term "firemen" includes "eligible firemen" as defined in Article 86, Chapter 58, notwithstanding any age requirements; to change the reference to the "North Carolina Association of Rescue Squads" to the "North Carolina Association of Rescue and Emergency Medical Services"; and require them to file their roster of members on or about January 31, rather than January 1. It also changes from January 1, to January 31, the date by which the Department of Health and Human Services must furnish a list of ambulance service members to the State Treasurer.

Section 11 corrects a statutory reference in G.S. 128-26(x) which pertains to the forfeiture of retirement benefits in LGERS for those convicted of certain felonies.

EFFECTIVE DATE: Section 9 of House Bill 358 would become effective December 1, 2013, and apply to acts committed on or after that date, the remainder of the act becomes effective July 1, 2013.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

2

**HOUSE BILL 358
Committee Substitute Favorable 5/2/13**

Short Title: Retirement Technical Corrections.-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

**A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE STATUTES
AFFECTING THE STATE RETIREMENT SYSTEMS.**

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143-166.30(d) reads as rewritten:

"(d) Supplemental Retirement Income Plan for State Law-Enforcement Officers. – As of January 1, 1985, there shall be created a Supplemental Retirement Income Plan, hereinafter called the "Plan," established for the benefit of all law-enforcement officers employed by the State, who shall be participants. The Board of Trustees of the State Retirement System shall administer the Plan and shall, under the terms and conditions otherwise appearing herein, provide Plan benefits either (i) by establishing a separate trust fund in conformance with Section 401(a), Section 401(k) or other sections of the Internal Revenue Code of 1954 as amended or, (ii) by causing the Plan to affiliate with some master trust fund providing the same benefits for participants. The Plan shall be separate and apart from any retirement systems.

In addition to the contributions transferred from the Law-Enforcement Officers' Retirement System and the contributions otherwise provided for in this Article, participants may make voluntary contributions to the Plan to be credited to the designated individual accounts of participants; provided, in no instance shall the total contributions by a participant exceed ten percent (10%) of a participant's compensation within any calendar year.

All contributions to the Plan shall be credited to the individual accounts of participants, and except as provided in subsection (g1) of this section, shall be fully and immediately vested in the name of the participant, and shall be invested according to each participant's election, as provided by the Board of Trustees, including but not limited to time deposits, and both fixed and variable investments. The Plan may provide for loans to participants, at reasonable rates of interest to be charged, from participants' individual accounts, and may provide for withdrawal of contributions on account of hardship.

The benefit to a participant in the Plan shall be either a lump-sum distribution or a distribution in periodic installments of the participant's account payable under retirement, disability, or termination of employment. Upon the death of a participant there shall be paid the same lump-sum distribution or periodic installments to the surviving spouse of the participant or otherwise to the participant's estate; provided, should a participant instruct the Board of Trustees in writing that he does not wish these benefits to be paid to his spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose.

Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, to the Teachers' and State Employees' Retirement System and receive, in addition to



1 his basic service, early or disability retirement allowance a special retirement allowance which
2 shall be based on his eligible accumulated account balance at the date of the transfer of the
3 assets."

4 **SECTION 1.(b)** G.S. 143-166.50(e) reads as rewritten:

5 "(e) Supplemental Retirement Income Plan for Local Governmental Law-Enforcement
6 Officers. – As of January 1, 1986, all law-enforcement officers employed by a local
7 government employer, are participating members of the Supplemental Retirement Income Plan
8 as provided by Article 5 of Chapter 135 of the General Statutes. In addition to the contributions
9 transferred from the Law-Enforcement Officers' Retirement System, participants may make
10 voluntary contributions to the Supplemental Retirement Income Plan to be credited to the
11 designated individual accounts of participants; ~~provided, in no instance shall the total~~
12 ~~contributions by a participant exceed ten percent (10%) of a participant's compensation within~~
13 ~~any calendar year.~~ participants. From July 1, 1987, until July 1, 1988, local government
14 employers of law enforcement officers shall contribute an amount equal to at least two percent
15 (2%) of participating local officers' monthly compensation to the Supplemental Retirement
16 Income Plan to be credited to the designated individual accounts of participating local officers;
17 and on and after July 1, 1988, local government employers of law enforcement officers shall
18 contribute an amount equal to five percent (5%) of participating local officers' monthly
19 compensation to the Supplemental Retirement Income Plan to be credited to the designated
20 individual accounts of participating local officers.

21 Additional contributions shall also be made to the individual accounts of all participants in
22 the Plan, except for Sheriffs, on a per capita equal-share basis from the sum of one dollar and
23 twenty-five cents (\$1.25) for each cost of court collected under G.S. 7A-304.

24 Upon retirement, a participant in the Plan may elect to transfer any portion of his eligible
25 accumulated contributions, not including any Roth after-tax contributions and the earnings
26 thereon, to the Local Governmental Employees' Retirement System and receive, in addition to
27 his basic service, early or disability retirement allowance a special retirement allowance which
28 shall be based on his eligible accumulated account balance at the date of the transfer of the
29 assets."

30 **SECTION 2.(a)** G.S. 128-26(a) reads as rewritten:

31 "(a) Each person who becomes a member during the first year of his or her employer's
32 participation, and who was an employee of the same employer at any time during the year
33 immediately preceding the date of participation, shall file a detailed statement of all service
34 rendered by him or her to that employer prior to the date of participation for which he or she
35 claims credit.

36 A participating employer may allow prior service credit to any of its employees on account
37 of: their earlier service to the aforesaid employer; or, their earlier service to any other employer
38 as the term employer is defined in G.S. 128-21(11); or, their earlier service to any state,
39 territory, or other governmental subdivision of the United States other than this State.

40 A participating employer may allow prior service credit to any of its employees on account
41 of service, as defined in G.S. 135-1(23), to the State of North Carolina to the extent of such
42 service prior to the establishment of the Teachers' and State Employees' Retirement System on
43 July 1, 1941; provided that employees allowed such prior service credit pay in a total lump sum
44 an amount calculated on the basis of compensation the employee earned when the employee
45 first entered membership and the employee contribution rate at that time together with interest
46 thereon from year of first membership to year of payment shall be one half of the calculated
47 cost.

48 (a1) With respect to a member retiring on or after July 1, 1967, the governing board of a
49 participating unit may allow credit for any period of military service in the Armed Forces of the
50 United States if the person returned to the service of the person's employer within two years
51 after having been honorably discharged, or becoming entitled to be discharged, released, or

separated from such the Armed Forces of the United States; provided that, notwithstanding the above provisions, any member having credit for not less than 10 years of otherwise creditable service may be allowed credit for such military services which are not creditable in any other governmental retirement system; provided further, that a member will receive credit for military service under the provisions of this paragraph only if the member submits satisfactory evidence of the military service claimed and the participating unit of which the member is an employee agrees to grant credit for such military service prior to January 1, 1972.

A member retiring on or after July 1, 1971, who is not granted credit for military service under the provisions of the preceding paragraph will be allowed credit for any period of qualifying service in the Armed Forces of the United States ~~up to the date the member was first eligible to be separated or released therefrom;~~ States, as defined for purposes of reemployment rights under federal law, provided that the member was an employee as defined in G.S. 128-21(10) at the time the member entered military service, and either ~~of (i) the returning member is in service, with the employer by whom the member was employed when the member entered military service, for a period of not less than 10 years after the member is separated or released from that military service under other than dishonorable conditions or (ii) the following conditions is met:~~ are met, in the conjunctive:

- ~~(1) The member returns to service, with the employer by whom the member was employed when the member entered military service, within a period of two years after the member is first eligible to be separated or released from such military service under other than dishonorable conditions.~~
- ~~(2) The member is in service, with the employer by whom the member was employed when the member entered military service, for a period of not less than 10 years after the member is separated or released from the Armed Forces of the United States under other than dishonorable conditions.~~
- (1) The member did not, prior to leaving for military service, provide clear written notice of an intent not to return to work after military service.
- (2) The member was discharged from uniformed service and returned from the leave of absence for uniformed service to membership service in this system within the time limit mandated by federal law for reporting back to work.
- (3) The period of uniformed service, for which additional service credit is sought, has been verified by suitable documentation and is not eligible for receipt of benefits under any other retirement system or pension plan.
- (4) All service credit forfeited by a refund pursuant to the provisions of G.S. 128-27(f) has been purchased.

The uniformed service credit allowed under this subsection shall be limited to a maximum of five years unless otherwise specifically exempted from that durational limitation by federal law. The salary or compensation of such an employee during the period of qualifying military service shall be deemed to be that salary or compensation the employee would have received but for the period of service had the employee remained continuously employed, if the determination of that salary or compensation is reasonably certain. If the determination of the salary or compensation is not reasonably certain, then it shall be deemed to be that employee's average rate of compensation during the 12-month period immediately preceding the period of service.

Pursuant to 38 U.S.C. § 4318(b)(1), when a member who has been on military leave returns to work consistent with the provisions of this subsection concerning return to service within two years after the member's earliest eligibility for separation or release from military service, then the member's employer must remit to the System all the employer contributions for the full period of that member's military service."

SECTION 3.(a) G.S. 135-1(14) reads as rewritten:

"(14) "Membership service" shall mean service as a teacher or State employee rendered while a member of the Retirement ~~System~~System or membership service in a North Carolina Retirement System that has been transferred into this system."

SECTION 3.(b) G.S. 128-21(14) reads as rewritten:

"(14) "Membership service" shall mean service as an employee rendered while a member of the Retirement ~~System~~System or membership service in a North Carolina Retirement System that has been transferred into this system."

SECTION 4.(a) G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" under this Chapter means the commencement of monthly retirement benefits along with termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service, perform no work for an employer,~~ including part-time, temporary, substitute, or contractor ~~service, work,~~ at any time during the six months immediately following the effective date of retirement. For purposes of this subdivision, ~~service-working~~ as a member of a school board or as an unpaid bona fide volunteer in a local school administrative unit shall not be considered service. A member who is a full-time faculty member of The University of North Carolina may effect a retirement allowance under this Chapter, notwithstanding the six-month requirement above, provided the member immediately enters the University's Phased Retirement Program for Tenured Faculty as that program existed on May 25, 2011."

SECTION 4.(b) G.S. 128-21(19) reads as rewritten:

"(19) "Retirement" under this Article shall mean ~~withdrawal~~ the commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with a retirement allowance granted under the provisions of this Article. no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this ~~Chapter~~Article may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service, perform no work for a participating employer,~~ including ~~part time, part-time,~~ temporary, substitute, or contractor ~~service, work,~~ at any time during the same month immediately following the effective ~~date~~first day of retirement."

SECTION 4.(c) G.S. 135-53(16) reads as rewritten:

"(16) "Retirement" under this Chapter shall mean the ~~withdrawal~~ commencement of monthly retirement benefits, along with the termination of employment and the complete separation from active service with a retirement allowance granted under the provisions of this Chapter. no intent or agreement, expressed or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must ~~render no service~~ perform no work, including part-time, temporary, substitute, or contractor work, at any time during ~~that month~~the same month immediately following the effective first day of retirement."

SECTION 5. G.S. 135-5.1(b) reads as rewritten:

"(b) Participation in the Optional Retirement Program shall be governed as follows:

1 ...
2 (2) Eligible employees initially appointed on or after July 1, 1985, shall at the
3 same time of entering upon eligible employment elect (i) to join the
4 Retirement System in accordance with the provisions of law applicable
5 thereto or (ii) to participate in the Optional Retirement Program. This
6 election shall be in writing and filed with the Retirement System and with
7 the employing institution and shall be effective as of the date of entry into
8 eligible service. For purposes of this provision, the Optional Retirement
9 Program shall be permitted to file individual election forms with the
10 Retirement System using electronic transmission.

11 "

12 **SECTION 6.** G.S. 135-105(d) reads as rewritten:

13 "(d) The provisions of this section shall be administered by the employer and further, the
14 benefits during the first six months of the short-term disability period shall be the full
15 responsibility of and paid by the employer; Provided, further, that upon the completion of the
16 initial six months of the short-term disability period, the employer will continue to be
17 responsible for the short-term benefits to the participant, however, such employer shall notify
18 the Plan, at the conclusion of the short-term disability period or upon termination of short-term
19 disability benefits, if earlier, of the amount of short-term benefits and State Health Insurance
20 premiums paid by the employer and the Plan shall reimburse the employer the amounts so
21 paid."

22 **SECTION 7.** G.S. 135-106(d) reads as rewritten:

23 "(d) Notwithstanding the foregoing, a participant or beneficiary who has applied for and
24 been approved by the Medical Board for long-term disability benefits may make an irrevocable
25 election, within 90 days from the date of notification of such approval, and prior to receipt of
26 any long-term disability benefit payments, to forfeit all pending and accrued rights to the
27 long-term disability benefit including any ancillary benefits and retire on an early service
28 retirement ~~allowance~~ allowance, effective with the first day of the month following the end of
29 the short-term period, or receive a return of accumulated contributions from the Retirement
30 System."

31 **SECTION 8.** G.S. 135-111 reads as rewritten:

32 "**§ 135-111. Applicability of other pension laws.**

33 Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled "Exemption
34 from taxes, garnishment, attachment, etc."; G.S. 135-10, entitled "Protection against fraud";
35 G.S. 135-10.1, entitled "Failure to Respond"; ~~G.S. 135-18.11, entitled "Improper receipt of~~
36 ~~decendent's retirement allowance or disability benefit"~~; and G.S. 135-17, entitled "Facility of
37 payment" shall be applicable to this Article and to benefits paid pursuant to the provisions of
38 this Article."

39 **SECTION 9.(a)** Article 6 of Chapter 135 of the General Statutes is amended by
40 adding a new section to read:

41 "**§ 135-111.1. Improper receipt of decedent's Disability Income Plan allowance.**

42 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
43 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
44 Disability Income Plan allowance and the person (i) knows that he or she is not entitled to the
45 decedent's Disability Income Plan allowance, (ii) receives the benefit at least two months after
46 the date of the beneficiary's death, and (iii) does not attempt to inform this Retirement System
47 of the beneficiary's death."

48 **SECTION 9.(b)** G.S. 135-18.11 reads as rewritten:

49 "**§ 135-18.11. Improper receipt of decedent's retirement allowance, ~~allowance or disability~~**
50 **benefit.**

1 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
2 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
3 retirement allowance ~~or a decedent's monthly benefit under the Disability Income Plan of North~~
4 ~~Carolina~~ and the person (i) knows that he or she is not entitled to the decedent's retirement
5 ~~allowance, allowance or the monthly disability benefit,~~ (ii) receives the benefit at least two
6 months after the date of the retiree's or beneficiary's death, and (iii) does not attempt to inform
7 this Retirement System of the retiree's or beneficiary's death."

8 **SECTION 9.(c)** G.S. 128-38.5 reads as rewritten:

9 **"§ 128-38.5. Improper receipt of decedent's retirement allowance.**

10 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
11 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
12 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
13 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
14 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the
15 retiree's or beneficiary's death."

16 **SECTION 9.(d)** G.S. 135-75.2 reads as rewritten:

17 **"§ 135-75.2. Improper receipt of decedent's retirement allowance.**

18 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
19 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
20 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
21 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
22 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the
23 retiree's or beneficiary's death."

24 **SECTION 9.(e)** G.S. 120-4.34 reads as rewritten:

25 **"§ 120-4.34. Improper receipt of decedent's retirement allowance.**

26 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
27 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
28 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
29 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
30 or beneficiary's death, and (iii) does not attempt to inform this Retirement System of the
31 retiree's or beneficiary's death."

32 **SECTION 10.** G.S. 143-166.2(d) reads as rewritten:

33 "(d) The term "law-enforcement officer", "officer", or "fireman" shall mean a sheriff and
34 all law-enforcement officers employed full-time, permanent part-time, or temporarily by a
35 sheriff, the State of North Carolina or any county or municipality thereof, whether paid or
36 unpaid; and all full-time custodial employees and probation and parole officers of the Division
37 of Adult Correction of the Department of Public Safety; and all full time institutional and
38 full-time, permanent part-time, and temporary detention employees of the Division of Juvenile
39 Justice of the Department of Public Safety and full-time, permanent part-time, and temporary
40 detention officers employed by any sheriff, county or municipality, whether paid or unpaid.
41 The term "firemen" shall mean both "eligible firemen" as defined in ~~G.S. 58-86-25~~ Article 86
42 of Chapter 58 of the General Statutes, notwithstanding any age requirements set out in that
43 Article, and all full-time, permanent part-time and temporary employees of the Division of
44 Forest Resources, Department of Agriculture and Consumer Services, during the time they are
45 actively engaged in fire-fighting activities; and shall mean all full-time employees of the North
46 Carolina Department of Insurance during the time they are actively engaged in fire-fighting
47 activities, during the time they are training fire fighters or rescue squad workers, and during the
48 time they are engaged in activities as members of the State Emergency Response Team, when
49 the Team has been activated; and shall mean all otherwise eligible persons who, while actively
50 engaged as firefighters or rescue squad workers, are acting in the capacity of a fire or rescue
51 instructor outside their own department or squad. The term "rescue squad worker" shall mean a

1 person who is dedicated to the purpose of alleviating human suffering and assisting anyone
2 who is in difficulty or who is injured or becomes suddenly ill by providing the proper and
3 efficient care or emergency medical services. In addition, this person must belong to an
4 organized rescue squad which is eligible for membership in the North Carolina Association of
5 Rescue Squads, and Emergency Medical Services, Inc., and the person must have attended a
6 minimum of 36 hours of training ~~and meetings~~ in the last calendar year. Each rescue squad
7 belonging to the North Carolina Association of Rescue ~~Squads, and Emergency Medical~~
8 Services, Inc., must file a roster of those members meeting the above requirements with the
9 State Treasurer on or about ~~January 1~~ January 31 of each year, and this roster must be certified
10 to by the secretary of said association. In addition, the term "rescue squad worker" shall mean a
11 member of an ambulance service certified by the Department of Health and Human Services
12 pursuant to Article 7 of Chapter 131E of the General Statutes. The Department of Health and
13 Human Services shall furnish a list of ambulance service members to the State Treasurer on or
14 about ~~January 1~~ January 31 of each year. The term "Civil Air Patrol members" shall mean those
15 senior members of the North Carolina Wing-Civil Air Patrol 18 years of age or older and
16 currently certified pursuant to G.S. 143B-1031. The term "fireman" shall also mean county fire
17 marshals when engaged in the performance of their county duties. The term "rescue squad
18 worker" shall also mean county emergency services coordinators when engaged in the
19 performance of their county duties."

20 **SECTION 11.** G.S. 128-26(x) reads as rewritten:

21 "(x) If a member who is in service and has not vested in this System on December 1,
22 2012, is convicted of an offense listed in G.S. ~~426-38.5-128-38.4A~~ for acts committed after
23 December 1, 2012, then that member shall forfeit all benefits under this System, except for a
24 return of member contributions plus interest. If a member who is in service and has vested in
25 this System on December 1, 2012, is convicted of an offense listed in G.S. ~~426-38.5-128-38.4A~~
26 for acts committed after December 1, 2012, then that member is not entitled to any creditable
27 service that accrued after December 1, 2012."

28 **SECTION 12.** Section 9 of this act becomes effective December 1, 2013, and
29 applies to acts committed on or after that date. The remainder of this act becomes effective July
30 1, 2013.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

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**HOUSE BILL 359
Committee Substitute Favorable 5/9/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H359-CSLL-24 [v.15]**

6/25/2013 3:05:27 PM

Short Title: Retirement Administrative Changes Act of 2013.

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT SYSTEMS THAT WILL EXTEND THE TRANSFER BENEFIT OPTION TO PARTICIPANTS IN THE 403(B) SUPPLEMENTAL RETIREMENT PLAN, CLARIFY THE TIMING OF THE SOCIAL SECURITY OFFSET FOR LONG-TERM DISABILITY BENEFITS, ESTABLISH A 415(M) BENEFITS PRESERVATION ARRANGEMENT AS ALLOWED UNDER FEDERAL LAW, AND PROVIDE THAT DOMESTIC RELATIONS ORDERS DIVIDING INTERESTS UNDER THE RETIREMENT SYSTEM MUST BE SUBMITTED ON APPROVED FORMS, AND TO AMEND THE PROVISIONS FOR ALLOWANCE OF RETROACTIVE MEMBERSHIP SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance.

A member who became a member of the Supplemental Retirement Income Plan prior to retirement and who remains a member of the Supplemental Retirement Income Plan may make a one-time election to transfer eligible balances, not including any Roth after-tax contributions and the earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement System:

- (1) A plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan.
- (2) A plan described in Section 403(b) of the Internal Revenue Code.
- (3) A plan described in Section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.



* H 3 5 9 - C S L L - 2 4 - V - 1 5 *

(4) An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.

(5) A tax-qualified plan described in Section 401(a) or 403(a) of the Internal Revenue Code.

Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain (i) the relationship between the transferred balance and the monthly benefit; and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from ~~the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan~~ an eligible retirement plan pursuant to this subsection to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the ~~Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan~~ eligible plan or the plan through which the transfer was made, whichever is most favorable to the member. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers. An eligible plan shall not assess a fee specifically relating to a transfer of accumulated contributions authorized under this subsection. This provision shall not prohibit other fees that may be assessable under the plan. Each plan, contract, account, or annuity shall fully disclose to any member participating in a transfer under this subsection any surrender charges or other fees, and such disclosure shall be made contemporaneous with the initiation of the transfer by the member.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

(1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the

beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.

- (2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 2. G.S. 135-106(b) reads as rewritten:

"(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by any primary Social Security disability benefits to which the beneficiary may be entitled, effective as of the first of the month following the month of initial entitlement, and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, any other federal agency or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of

1 1/12th of the annual base rate of compensation last payable to the participant or beneficiary
2 prior to the beginning of the short-term disability period as may be adjusted for percentage
3 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual
4 longevity payment to which the participant or beneficiary would be eligible, to a maximum of
5 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security
6 disability benefits to which the beneficiary may be entitled, effective as of the first of the month
7 following the month of initial entitlement, and by monthly payments for Workers'
8 Compensation to which the participant or beneficiary may be entitled. When primary Social
9 Security disability benefits are increased by cost-of-living adjustments, the increased reduction
10 shall be applied in the first month following the month in which the member becomes entitled
11 to the increased Social Security benefit. The monthly benefit shall be further reduced by the
12 amount of any monthly payments from the federal Department of Veterans Affairs, for
13 payments from any other federal agency, or for any payments made under the provisions of
14 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
15 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
16 a month.

17 Notwithstanding the foregoing, but subject to an additional integration with the five-year
18 and 10-year retirement vesting provisions as set forth in this paragraph, the long-term disability
19 benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social
20 Security disability benefit until the earliest date at which the beneficiary who became a member
21 prior to August 1, 2011, is eligible for an unreduced service retirement allowance from the
22 Retirement System, at which time the beneficiary would receive a retirement allowance
23 calculated on the basis of the beneficiary's average final compensation at the time of disability
24 as adjusted to reflect compensation increases subsequent to the time of disability and the
25 creditable service accumulated by the beneficiary, including creditable service while in receipt
26 of benefits under the Plan. In the case of any long-term disability beneficiary who became a
27 member on and after August 1, 2011, and ordinarily would not be eligible for a retirement
28 benefit without 10 years of membership service, for purposes of this conversion from long-term
29 disability to service retirement, and for that purpose only, noncontributory creditable service
30 granted while in receipt of disability benefits under this Article shall be deemed to be
31 membership service, through the completion of 10 years of combined membership and
32 noncontributory service on short-term and long-term disability benefits in total. In the event the
33 beneficiary has not been approved and is not in receipt of a primary Social Security disability
34 benefit, the long-term disability benefit shall cease after the first 36 months of the long-term
35 disability period. When such a long-term disability recipient begins receiving this unreduced
36 service retirement allowance from the System, that recipient shall not be subject to the
37 six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled
38 to a restoration of the long-term disability benefit in the event the Social Security
39 Administration grants a retroactive approval for primary Social Security disability benefits with
40 a benefit effective date within the first 36 months of the long-term disability period. In such
41 event, the long-term disability benefit shall be restored retroactively to the date of cessation."

42 **SECTION 3.(a)** Chapter 135 of the General Statutes is amended by adding a new
43 Article to read:

44 "Article 7.

45 "Qualified Excess Benefit Arrangement.

46 "§ 135-150. Definitions.

47 The following words and phrases as used in this Article, unless a different meaning is
48 plainly required by the context, have the following meanings:

49 (1) "Board of Trustees" means the Board of Trustees established by G.S. 135-6.

50 (2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as
51 amended from time to time.

- (3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.
- (4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.
- (5) "Retirement System" means the Teachers' and State Employees' Retirement System.

"§ 135-151. Qualified Excess Benefit Arrangement.

(a) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by a Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in this Article, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(b) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the Teachers' and State Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or retired member who is receiving monthly retirement benefit payments from a Retirement System.

(c) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a payee shall receive each month, commencing on and after January 1, 2014, a monthly supplemental benefit equal to the difference between the amount of that payee's monthly retirement benefit paid under the Teachers' and State Employees' Retirement System on and after January 1, 2014, and the amount that would have been payable to that payee from the Teachers' and State Employees' Retirement System in that month if not for the reduction due to the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall be computed and payable under the same terms, at the same time, and to the same person as the related benefit payable under the Retirement System. A payee cannot elect to defer the receipt of all or any part of the supplemental payments due under the QEBA. The supplemental benefit paid under this section shall be taxable under North Carolina law in the same manner as the benefit paid under the Teachers' and State Employees' Retirement System.

(d) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary engaged by the Board of Trustees, shall determine the employer contributions required to pay the benefits due under the QEBA for each fiscal year. The required contributions shall be paid by all participating employers. The required contributions shall be deposited in a separate fund from the fund into which regular employer contributions are deposited for the Retirement System. The benefit liability for the QEBA shall be determined each fiscal year and assets shall not be accumulated to pay benefits in future fiscal years.

(e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an additional employer contribution.

(f) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs, shall have no right to, and shall have no property interest in, any assets held to support the liabilities created under this Article. To the extent that any person acquires the right to receive

benefits under the QEBA, that right shall be no greater than the right of any unsecured general creditor of the State of North Carolina or such other applicable employer under this Article.

(g) Administration. – The QEBA shall be administered by the Board of Trustees, which shall compile and maintain all records necessary or appropriate for administration. The Board of Trustees shall have full discretionary authority to interpret, construe, and implement the QEBA and to adopt such rules and regulations as may be necessary or desirable to implement the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

(h) No Assignment. – Except for the application of the provisions of G.S. 110-136 and G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under G.S. 50-20, any supplemental benefit under this Article shall be exempt from levy and sale, garnishment, attachment, or any other process, and shall be unassignable except as specifically otherwise provided in this Chapter.

(i) Reservation of Power to Change. – The General Assembly reserves the right at any time and, from time to time, to modify or amend, in whole or in part, any or all of the provisions of the QEBA. No member of the Retirement System and no beneficiary of such a member shall be deemed to have acquired any vested right to a supplemental payment under this Article.

(j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code."

SECTION 3.(b) Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

"§ 128-38.10. Qualified Excess Benefit Arrangement.

(a) The following words and phrases as used in this section, unless a different meaning is plainly required by the context, have the following meanings:

(1) "Board of Trustees" means the Board of Trustees established by G.S. 128-28.

(2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time.

(3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.

(4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.

(5) "Retirement System" means the North Carolina Local Governmental Employees' Retirement System.

(b) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by the North Carolina Local Governmental Employees' Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in this section, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(c) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the North Carolina Local Governmental Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor

1 beneficiary of a member or retired member who is receiving monthly retirement benefit
2 payments from a Retirement System.

3 (d) Supplemental Benefit Payable Under the OEBA. – Effective January 1, 2014, a
4 payee shall receive each month, commencing on and after January 1, 2014, a monthly
5 supplemental benefit equal to the difference between the amount of that payee's monthly
6 retirement benefit paid under the North Carolina Local Governmental Employees' Retirement
7 System on and after January 1, 2014, and the amount that would have been payable to that
8 payee from the North Carolina Local Governmental Employees' Retirement System in that
9 month if not for the reduction due to the application of section 415(b) of the Internal Revenue
10 Code. That supplemental benefit shall be computed and payable under the same terms, at the
11 same time, and to the same person as the related benefit payable under the Retirement System.
12 A payee cannot elect to defer the receipt of all or any part of the supplemental payments due
13 under the OEBA. The supplemental benefit paid under this section shall be taxable under North
14 Carolina law in the same manner as the benefit paid under the North Carolina Local
15 Governmental Employees' Retirement System.

16 (e) Funding of the OEBA. – The OEBA shall be unfunded within the meaning of
17 federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise
18 shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary
19 engaged by the Board of Trustees, shall determine the employer contributions required to pay
20 the benefits due under the OEBA for each fiscal year. The required contributions shall be paid
21 by all participating employers. The required contributions shall be deposited in a separate fund
22 from the fund into which regular employer contributions are deposited for the underlying
23 Retirement System. The benefit liability for the OEBA shall be determined each fiscal year and
24 assets shall not be accumulated to pay benefits in future fiscal years.

25 (f) Treatment of Unused Assets. – Any assets of the OEBA plan not used to pay
26 benefits in the current fiscal year shall be used for payment of the administrative expenses of
27 the OEBA for the current or future fiscal years or shall be paid to the Retirement System as an
28 additional employer contribution.

29 (g) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs,
30 shall have no right to, and shall have no property interest in, any assets held to support the
31 liabilities created under this section. To the extent that any person acquires the right to receive
32 benefits under the OEBA, that right shall be no greater than the right of any unsecured general
33 creditor of the State of North Carolina or such other applicable employer under this section.

34 (h) Administration. – The OEBA shall be administered by the Board of Trustees, which
35 shall compile and maintain all records necessary or appropriate for administration. The Board
36 of Trustees shall have full discretionary authority to interpret, construe, and implement the
37 OEBA and to adopt such rules and regulations as may be necessary or desirable to implement
38 the provisions of the OEBA in accordance with section 415(m) of the Internal Revenue Code.

39 (i) No Assignment. – Except for the application of the provisions of G.S. 110-136 and
40 G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under
41 G.S. 50-20, any supplemental benefit under this section shall be exempt from levy and sale,
42 garnishment, attachment, or any other process, and shall be unassignable except as specifically
43 otherwise provided in this section.

44 (j) Reservation of Power to Change. – The General Assembly reserves the right at any
45 time and, from time to time, to modify or amend, in whole or in part, any or all of the
46 provisions of the OEBA. No member of the Retirement System and no beneficiary of such a
47 member shall be deemed to have acquired any vested right to a supplemental payment under
48 this section.

49 (k) Sunset of Eligibility to Participate in the OEBA. – No member of the North
50 Carolina Local Governmental Employees' Retirement System retiring on or after January 1,
51 2015, shall be eligible to participate in the OEBA, and the Retirement System shall not pay any

1 new retiree more retirement benefits than allowed under the limitations of section 415(b) of the
2 Internal Revenue Code."

3 SECTION 4.(a) G.S. 135-9 reads as rewritten:

4 "§ 135-9. Exemption from garnishment, attachment, etc.

5 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
6 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
7 person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
8 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
9 or accruing to any person under the provisions of this Chapter, and the moneys in the various
10 funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any
11 other process whatsoever, and shall be unassignable except as in this Chapter specifically
12 otherwise provided. Application for System approval of a domestic relations order dividing a
13 person's interest under the Retirement System shall be accompanied by an order consistent with
14 the system-designed template order provided on the System's Web site. Notwithstanding any
15 provisions to the contrary, any overpayment of benefits to a member in a State-administered
16 retirement system or the former Disability Salary Continuation Plan or the Disability Income
17 Plan of North Carolina may be offset against any retirement allowance, return of contributions
18 or any other right accruing under this Chapter to the same person, the person's estate, or
19 designated beneficiary."

20 SECTION 4.(b) G.S. 128-31 reads as rewritten:

21 "§ 128-31. Exemptions from execution.

22 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
23 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
24 person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
25 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
26 or accruing to any person under the provisions of this Article, and the moneys in the various
27 funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any
28 other process whatsoever, and shall be unassignable except as in this Article specifically
29 otherwise provided. Application for System approval of a domestic relations order dividing a
30 person's interest under the Retirement System shall be accompanied by an order consistent with
31 the system-designed template order provided on the System's Web site. Notwithstanding any
32 provisions to the contrary, any overpayment of benefits to a member in a State-administered
33 retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of
34 North Carolina may be offset against any retirement allowance, return of contributions or any
35 other right accruing under this Chapter to the same person, the person's estate, or designated
36 beneficiary."

37 SECTION 5. G.S. 135-3(8)d. reads as rewritten:

38 "d. Should a beneficiary who retired on an early or service retirement
39 allowance under this Chapter be restored to service as an employee
40 or teacher, then the retirement allowance shall cease as of the first of
41 the month following the month in which the beneficiary is restored to
42 service and the beneficiary shall become a member of the Retirement
43 System and shall contribute thereafter as allowed by law at the
44 uniform contribution payable by all members.

45 Upon his subsequent retirement, he shall be paid a retirement
46 allowance determined as follows:

- 47 1. For a member who earns at least three years' membership
48 service after restoration to service, creditable service earned
49 while in receipt of disability benefits under Article 6 of this
50 Chapter shall count as membership service for this purpose
51 only, and the retirement allowance shall be computed on the

1 basis of his compensation and service before and after the
2 period of prior retirement without restrictions; provided, that
3 if the prior allowance was based on a social security leveling
4 payment option, the allowance shall be adjusted actuarially
5 for the difference between the amount received under the
6 optional payment and what would have been paid if the
7 retirement allowance had been paid without optional
8 modification. In the alternative, the member may receive a
9 refund of the member's accumulated contributions for the
10 period of service after restoration to service in accordance
11 with G.S. 135-5(f).

- 12 2. For a member who does not earn three years' membership
13 service after restoration to service, the retirement allowance
14 shall be equal to the sum of the retirement allowance to which
15 he would have been entitled had he not been restored to
16 service, without modification of the election of an optional
17 allowance previously made, and the retirement allowance that
18 results from service earned since being restored to service;
19 provided, that if the prior retirement allowance was based on
20 a social security leveling payment option, the prior allowance
21 shall be adjusted actuarially for the difference between the
22 amount that would have been paid for each month had the
23 payment not been suspended and what would have been paid
24 if the retirement allowance had been paid without optional
25 modification. In the alternative, the member may receive a
26 refund of the member's accumulated contributions for the
27 period of service after restoration to service in accordance
28 with G.S. 135-5(f), or the member may allow this new
29 account to remain inactive."

30 **SECTION 6.(a)** G.S. 135-4(ff) reads as rewritten:

31 "(ff) Retroactive Membership Service. – A member who is reinstated to service as an
32 employee as defined in G.S. 135-1(10) or as a teacher as defined in G.S. 135-1(25)
33 retroactively to the date of prior involuntary termination ~~(with backpay and benefits)~~ with back
34 pay, as defined by the State Personnel Commission, and associated benefits may be allowed
35 membership service, after submitting clear and convincing evidence of the
36 ~~reinstatement~~, reinstatement, payment of back pay, and restoration of associated benefits, as
37 follows:

- 38 (1) When the reinstatement to service is by court order, final decision of an
39 Administrative Law Judge, or decision of the State Personnel Commission,
40 and is:

- 41 a. Within 90 days of the involuntary termination, by the payment of
42 employee and employer contributions that would have been paid; or
43 (2)b. After 90 days of the involuntary termination, by the payment of the
44 employee and employer contributions that would have been paid plus
45 interest compounded annually at a rate equal to the greater of the
46 average yield on the pension accumulation fund for the preceding
47 calendar year or the actuarial investment rate-of-return assumption,
48 as adopted by the Board of Trustees.

- 49 (2) When the reinstatement to service is by settlement agreement voluntarily
50 entered into by the affected parties, by the payment of a lump-sum amount
51 equal to the full liability of the service credits calculated on the basis of the

assumptions used for purposes of the actuarial valuation of the system's liabilities, taking into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost" include assumed annual postretirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the retroactive membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the member shall be credited to the member's annuity savings account; provided, however, an employer does not discriminate against any member or group of members in his employ in paying all or any part of the cost of the retroactive membership service.

In the event a member received a return of accumulated contributions subsequent to an involuntary termination as provided in G.S. 135-5(f), the member may redeposit, within 90 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity savings fund by single payment an amount equal to the total amount he previously withdrew plus regular interest and restore the creditable service forfeited upon receiving his return of accumulated contributions."

SECTION 6.(b) G.S. 128-26(v) reads as rewritten:

"(v) Retroactive Membership Service. – A member who is reinstated to service as an employee as defined in G.S. 128-21(10) retroactively to the date of prior involuntary termination ~~(with backpay and benefits)~~ with back pay and associated benefits may be allowed membership service, after submitting clear and convincing evidence of the reinstatement, payment of back pay, and restoration of associated benefits, as follows:

(1) When the reinstatement to service is by court order and is:

- a. Within 90 days of the involuntary termination, by the payment of employee and employer contributions that would have been paid; or
- ~~(2)~~b. After 90 days of the involuntary termination, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees.

(2) When the reinstatement to service is by settlement agreement voluntarily entered into by the affected parties, by the payment of a lump-sum amount equal to the full liability of the service credits calculated on the basis of the assumptions used for purposes of the actuarial valuation of the system's liabilities, taking into account the retirement allowance arising on account of the additional service credit commencing at the earliest age at which the member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subsection that provide for the purchase of service credits, the terms "full cost," "full liability," and "full actuarial cost" include assumed annual postretirement allowance increases, as determined

1 by the Board of Trustees, from the earliest age at which a member could
2 retire on an unreduced service allowance.

3 Nothing contained in this subsection shall prevent an employer or member from paying all
4 or a part of the cost of the retroactive membership service; and to the extent paid by the
5 employer, the cost paid by the employer shall be credited to the pension accumulation fund;
6 and to the extent paid by the member, the cost paid by the member shall be credited to the
7 member's annuity savings account; provided, however, an employer does not discriminate
8 against any member or group of members in his employ in paying all or any part of the cost of
9 the retroactive membership service.

10 In the event a member received a return of accumulated contributions subsequent to an
11 involuntary termination as provided in G.S. 128-27(f), the member may redeposit, within 90
12 days of reinstatement retroactive to the date of prior involuntary termination, in the annuity
13 savings fund by single payment, an amount equal to the total amount he previously withdrew
14 plus regular interest and restore the creditable service forfeited upon receiving his return of
15 accumulated contributions."

16 **SECTION 7.** If any provision of this act or its application is held invalid, the
17 invalidity does not affect other provisions or applications of this act that can be given effect
18 without the invalid provisions or application, and to this end the provisions of this act are
19 severable.

20 **SECTION 8.** Section 3 of this act becomes effective January 1, 2014. Section 5 of
21 this act becomes effective January 1, 2012, and applies to persons retiring on or after that date.
22 The remainder of this act becomes effective July 1, 2013.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
House Bill 359

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

H359-ASH-12 [v.1]

Comm. Sub. [YES]
Amends Title [YES]
Second Edition

Date _____, 2013

Senator _____

- 1 moves to amend the bill on page 1, line 9, by rewriting the line to read,
- 2 "MUST BE SUBMITTED ON APPROVED FORMS, AND TO CORRECT AN OVERSIGHT
- 3 IN THE DISABILITY INCOME PLAN, AND TO AMEND THE".

SIGNED _____
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____



* H 3 5 9 - A S H - 1 2 - V - 1 *

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

2

**HOUSE BILL 359
Committee Substitute Favorable 5/9/13**

Short Title: Retirement Administrative Changes Act of 2013-AB

(Public)

Sponsors:

Referred to:

March 21, 2013

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT
SYSTEMS THAT WILL EXTEND THE TRANSFER BENEFIT OPTION TO
PARTICIPANTS IN THE 403(B) SUPPLEMENTAL RETIREMENT PLAN, CLARIFY
THE TIMING OF THE SOCIAL SECURITY OFFSET FOR LONG-TERM DISABILITY
BENEFITS, ESTABLISH A 415(M) BENEFITS PRESERVATION ARRANGEMENT
AS ALLOWED UNDER FEDERAL LAW, AND PROVIDE THAT DOMESTIC
RELATIONS ORDERS DIVIDING INTERESTS UNDER THE RETIREMENT SYSTEM
MUST BE SUBMITTED ON APPROVED FORMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina ~~or~~ North Carolina, the North Carolina Public Employee Deferred Compensation ~~Plan~~ Plan, or the North Carolina Public School Teachers' and Professional Educators' Investment Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain (i) the relationship between the transferred balance and the monthly benefit; and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees



* H 3 5 9 - V - 2 *

shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from the Supplemental Retirement Income Plan of North ~~Carolina~~ or Carolina, the North Carolina Public Employee Deferred Compensation ~~Plan~~ Plan, or the North Carolina Public School Teachers' and Professional Educators' Investment Plan to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North ~~Carolina~~ or Carolina, the North Carolina Public Employee Deferred Compensation ~~Plan~~ Plan, or the North Carolina Public School Teachers' and Professional Educators' Investment Plan. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

- (1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.
- (2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 2. G.S. 135-106(b) reads as rewritten:

"(b) After the commencement of benefits under this section, the benefits payable under the terms of this section during the first 36 months of the long-term disability period shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would

1 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced
2 by any primary Social Security disability benefits to which the beneficiary may be entitled,
3 effective as of the first of the month following the month of initial entitlement, and by monthly
4 payments for Workers' Compensation to which the participant or beneficiary may be entitled.
5 When primary Social Security disability benefits are increased by cost-of-living adjustments,
6 the increased reduction shall be applied in the first month following the month in which the
7 member becomes entitled to the increased Social Security benefit. The monthly benefit shall be
8 further reduced by the amount of any monthly payments from the federal Department of
9 Veterans Affairs, any other federal agency or any payments made under the provisions of
10 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
11 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
12 a month. However, a disabled participant may elect to receive any salary continuation as
13 provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall
14 not extend the first 36 consecutive calendar months of the long-term disability period. An
15 election to receive any salary continuation for any part of any given day shall be in lieu of any
16 long-term benefit payable for that day, provided further, any lump-sum payout for vacation
17 leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in
18 lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's
19 benefit shall be reduced during the first 36 months of the long-term disability period by an
20 amount, as determined by the Board of Trustees, equal to a primary Social Security retirement
21 benefit to which the beneficiary might be entitled.

22 After 36 months of long-term disability, no further benefits are payable under the terms of
23 this section unless the member has been approved and is in receipt of primary Social Security
24 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of
25 1/12th of the annual base rate of compensation last payable to the participant or beneficiary
26 prior to the beginning of the short-term disability period as may be adjusted for percentage
27 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual
28 longevity payment to which the participant or beneficiary would be eligible, to a maximum of
29 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security
30 disability benefits to which the beneficiary may be entitled, effective as of the first of the month
31 following the month of initial entitlement, and by monthly payments for Workers'
32 Compensation to which the participant or beneficiary may be entitled. When primary Social
33 Security disability benefits are increased by cost-of-living adjustments, the increased reduction
34 shall be applied in the first month following the month in which the member becomes entitled
35 to the increased Social Security benefit. The monthly benefit shall be further reduced by the
36 amount of any monthly payments from the federal Department of Veterans Affairs, for
37 payments from any other federal agency, or for any payments made under the provisions of
38 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
39 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
40 a month.

41 Notwithstanding the foregoing, but subject to an additional integration with the five-year
42 and 10-year retirement vesting provisions as set forth in this paragraph, the long-term disability
43 benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social
44 Security disability benefit until the earliest date at which the beneficiary who became a member
45 prior to August 1, 2011, is eligible for an unreduced service retirement allowance from the
46 Retirement System, at which time the beneficiary would receive a retirement allowance
47 calculated on the basis of the beneficiary's average final compensation at the time of disability
48 as adjusted to reflect compensation increases subsequent to the time of disability and the
49 creditable service accumulated by the beneficiary, including creditable service while in receipt
50 of benefits under the Plan. In the case of any long-term disability beneficiary who became a
51 member on and after August 1, 2011, and ordinarily would not be eligible for a retirement

benefit without 10 years of membership service, for purposes of this conversion from long-term disability to service retirement, and for that purpose only, noncontributory creditable service granted while in receipt of disability benefits under this Article shall be deemed to be membership service, through the completion of 10 years of combined membership and noncontributory service on short-term and long-term disability benefits in total. In the event the beneficiary has not been approved and is not in receipt of a primary Social Security disability benefit, the long-term disability benefit shall cease after the first 36 months of the long-term disability period. When such a long-term disability recipient begins receiving this unreduced service retirement allowance from the System, that recipient shall not be subject to the six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled to a restoration of the long-term disability benefit in the event the Social Security Administration grants a retroactive approval for primary Social Security disability benefits with a benefit effective date within the first 36 months of the long-term disability period. In such event, the long-term disability benefit shall be restored retroactively to the date of cessation."

SECTION 3.(a) Chapter 135 of the General Statutes is amended by adding a new Article to read:

"Article 7.

"Qualified Excess Benefit Arrangement.

"§ 135-150. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, have the following meanings:

- (1) "Board of Trustees" means the Board of Trustees established by G.S. 135-6.
- (2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended from time to time.
- (3) "Payee" means a retired member, or the survivor beneficiary of a member or retired member.
- (4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit arrangement under section 415(m) of the Internal Revenue Code established under this Article.
- (5) "Retirement System" means the Teachers' and State Employees' Retirement System.

"§ 135-151. Qualified Excess Benefit Arrangement.

(a) The Qualified Excess Benefit Arrangement (QEBA) is established effective January 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA is solely to provide the part of a retirement allowance or benefit that would otherwise have been payable by a Retirement System except for the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in this Article, is intended to constitute a qualified governmental excess benefit arrangement under section 415(m) of the Internal Revenue Code.

(b) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee shall participate in the QEBA for any calendar year, or portion of the calendar year, during which he or she receives a retirement allowance or benefit payment on and after January 1, 2014, from the Teachers' and State Employees' Retirement System that is reduced due to the application of the maximum benefit provisions of section 415(b) of the Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor beneficiary of a member or retired member who is receiving monthly retirement benefit payments from a Retirement System.

(c) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a payee shall receive each month, commencing on and after January 1, 2014, a monthly supplemental benefit equal to the difference between the amount of that payee's monthly retirement benefit paid under the Teachers' and State Employees' Retirement System on and after January 1, 2014, and the amount that would have been payable to that payee from the

1 Teachers' and State Employees' Retirement System in that month if not for the reduction due to
2 the application of section 415(b) of the Internal Revenue Code. That supplemental benefit shall
3 be computed and payable under the same terms, at the same time, and to the same person as the
4 related benefit payable under the Retirement System. A payee cannot elect to defer the receipt
5 of all or any part of the supplemental payments due under the QEBA.

6 (d) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of
7 federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise
8 shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary
9 engaged by the Board of Trustees, shall determine the employer contributions required to pay
10 the benefits due under the QEBA for each fiscal year. The required contributions shall be paid
11 by all participating employers. The required contributions shall be deposited in a separate fund
12 from the fund into which regular employer contributions are deposited for the Retirement
13 System. The benefit liability for the QEBA shall be determined each fiscal year and assets shall
14 not be accumulated to pay benefits in future fiscal years.

15 (e) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay
16 benefits in the current fiscal year shall be used for payment of the administrative expenses of
17 the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an
18 additional employer contribution.

19 (f) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs,
20 shall have no right to, and shall have no property interest in, any assets held to support the
21 liabilities created under this Article. To the extent that any person acquires the right to receive
22 benefits under the QEBA, that right shall be no greater than the right of any unsecured general
23 creditor of the State of North Carolina or such other applicable employer under this Article.

24 (g) Administration. – The QEBA shall be administered by the Board of Trustees, which
25 shall compile and maintain all records necessary or appropriate for administration. The Board
26 of Trustees shall have full discretionary authority to interpret, construe, and implement the
27 QEBA and to adopt such rules and regulations as may be necessary or desirable to implement
28 the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

29 (h) No Assignment. – Except for the application of the provisions of G.S. 110-136 and
30 G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under
31 G.S. 50-20, any supplemental benefit under this Article shall be exempt from levy and sale,
32 garnishment, attachment, or any other process, and shall be unassignable except as specifically
33 otherwise provided in this Chapter.

34 (i) Reservation of Power to Change. – The General Assembly reserves the right at any
35 time and, from time to time, to modify or amend, in whole or in part, any or all of the
36 provisions of the QEBA. No member of the Retirement System and no beneficiary of such a
37 member shall be deemed to have acquired any vested right to a supplemental payment under
38 this Article.

39 (j) Sunset of Eligibility to Participate in the QEBA. – No member of the Teachers' and
40 State Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to
41 participate in the QEBA, and the Retirement System shall not pay any new retiree more
42 retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue
43 Code."

44 **SECTION 3.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
45 adding a new section to read:

46 **"§ 128-38.10. Qualified Excess Benefit Arrangement.**

47 (a) The following words and phrases as used in this section, unless a different meaning
48 is plainly required by the context, have the following meanings:

49 (1) "Board of Trustees" means the Board of Trustees established by G.S. 128-
50 28.

- 1 (2) "Internal Revenue Code" means the Internal Revenue Code of 1986, as
2 amended from time to time.
- 3 (3) "Payee" means a retired member, or the survivor beneficiary of a member or
4 retired member.
- 5 (4) "Qualified Excess Benefit Arrangement" means the qualified excess benefit
6 arrangement under section 415(m) of the Internal Revenue Code established
7 under this Article.
- 8 (5) "Retirement System" means the North Carolina Local Governmental
9 Employees' Retirement System.

10 (b) The Qualified Excess Benefit Arrangement (QEBA) is established effective January
11 1, 2014, and placed under the management of the Board of Trustees. The purpose of the QEBA
12 is solely to provide the part of a retirement allowance or benefit that would otherwise have been
13 payable by the North Carolina Local Governmental Employees' Retirement System except for
14 the limitations under section 415(b) of the Internal Revenue Code. The QEBA, as set forth in
15 this section, is intended to constitute a qualified governmental excess benefit arrangement
16 under section 415(m) of the Internal Revenue Code.

17 (c) Eligibility to Participate in the QEBA. – Effective as of January 1, 2014, a payee
18 shall participate in the QEBA for any calendar year, or portion of the calendar year, during
19 which he or she receives a retirement allowance or benefit payment on and after January 1,
20 2014, from the North Carolina Local Governmental Employees' Retirement System that is
21 reduced due to the application of the maximum benefit provisions of section 415(b) of the
22 Internal Revenue Code. For purposes of the QEBA, a payee is a retired member or survivor
23 beneficiary of a member or retired member who is receiving monthly retirement benefit
24 payments from a Retirement System.

25 (d) Supplemental Benefit Payable Under the QEBA. – Effective January 1, 2014, a
26 payee shall receive each month, commencing on and after January 1, 2014, a monthly
27 supplemental benefit equal to the difference between the amount of that payee's monthly
28 retirement benefit paid under the North Carolina Local Governmental Employees' Retirement
29 System on and after January 1, 2014, and the amount that would have been payable to that
30 payee from the North Carolina Local Governmental Employees' Retirement System in that
31 month if not for the reduction due to the application of section 415(b) of the Internal Revenue
32 Code. That supplemental benefit shall be computed and payable under the same terms, at the
33 same time, and to the same person as the related benefit payable under the Retirement System.
34 A payee cannot elect to defer the receipt of all or any part of the supplemental payments due
35 under the QEBA.

36 (e) Funding of the QEBA. – The QEBA shall be unfunded within the meaning of
37 federal tax laws. No payee contributions or deferrals, direct or indirect, by election or otherwise
38 shall be made or allowed. The Board of Trustees, upon the recommendation of the actuary
39 engaged by the Board of Trustees, shall determine the employer contributions required to pay
40 the benefits due under the QEBA for each fiscal year. The required contributions shall be paid
41 by all participating employers. The required contributions shall be deposited in a separate fund
42 from the fund into which regular employer contributions are deposited for the underlying
43 Retirement System. The benefit liability for the QEBA shall be determined each fiscal year and
44 assets shall not be accumulated to pay benefits in future fiscal years.

45 (f) Treatment of Unused Assets. – Any assets of the QEBA plan not used to pay
46 benefits in the current fiscal year shall be used for payment of the administrative expenses of
47 the QEBA for the current or future fiscal years or shall be paid to the Retirement System as an
48 additional employer contribution.

49 (g) Assets Subject to Claims of Creditors. – A payee, or a payee's beneficiary or heirs,
50 shall have no right to, and shall have no property interest in, any assets held to support the
51 liabilities created under this section. To the extent that any person acquires the right to receive

benefits under the QEBA, that right shall be no greater than the right of any unsecured general creditor of the State of North Carolina or such other applicable employer under this section.

(h) Administration. – The QEBA shall be administered by the Board of Trustees, which shall compile and maintain all records necessary or appropriate for administration. The Board of Trustees shall have full discretionary authority to interpret, construe, and implement the QEBA and to adopt such rules and regulations as may be necessary or desirable to implement the provisions of the QEBA in accordance with section 415(m) of the Internal Revenue Code.

(i) No Assignment. – Except for the application of the provisions of G.S. 110-136 and G.S. 110-136.3, et seq., or in connection with a court-ordered equitable distribution under G.S. 50-20, any supplemental benefit under this section shall be exempt from levy and sale, garnishment, attachment, or any other process, and shall be unassignable except as specifically otherwise provided in this section.

(j) Reservation of Power to Change. – The General Assembly reserves the right at any time and, from time to time, to modify or amend, in whole or in part, any or all of the provisions of the QEBA. No member of the Retirement System and no beneficiary of such a member shall be deemed to have acquired any vested right to a supplemental payment under this section.

(k) Sunset of Eligibility to Participate in the QEBA. – No member of the North Carolina Local Governmental Employees' Retirement System retiring on or after January 1, 2015, shall be eligible to participate in the QEBA, and the Retirement System shall not pay any new retiree more retirement benefits than allowed under the limitations of section 415(b) of the Internal Revenue Code."

SECTION 4.(a) G.S. 135-9 reads as rewritten:

"§ 135-9. Exemption from garnishment, attachment, etc.

Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Chapter, and the moneys in the various funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. Notwithstanding any provisions to the contrary, any overpayment of benefits to a member in a State-administered retirement system or the former Disability Salary Continuation Plan or the Disability Income Plan of North Carolina may be offset against any retirement allowance, return of contributions or any other right accruing under this Chapter to the same person, the person's estate, or designated beneficiary."

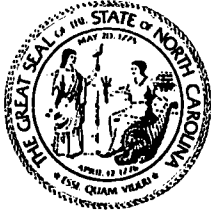
SECTION 4.(b) G.S. 128-31 reads as rewritten:

"§ 128-31. Exemptions from execution.

Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Article specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. Notwithstanding any

1 provisions to the contrary, any overpayment of benefits to a member in a State-administered
2 retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of
3 North Carolina may be offset against any retirement allowance, return of contributions or any
4 other right accruing under this Chapter to the same person, the person's estate, or designated
5 beneficiary."

6 **SECTION 5.** This act becomes effective January 1, 2014.



HOUSE BILL 232: State Health Plan/Statutory Changes.-AB

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Rep. Dockham
Analysis of: PCS to Third Edition
H232-CSSH-23

Date: June 20, 2013
Prepared by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 232 amends the eligibility and effective dates of coverage to conform to new requirements in federal law and limits retirees adding dependents during the plan year to a qualifying event only. The bill makes technical corrections by eliminating a reference to positions that no longer exist and correcting title references. The bill also exempts the State Health Plan from charging interest on past-due account receivables.*

The PCS only changes the effective dates.

BILL ANALYSIS:

Section 1 of the bill makes changes to conform State Health Plan eligibility standards to the Affordable Care Act (ACA) formula (found in the Internal Revenue Code) for determining whether an individual is a full-time employee. The ACA subjects large employers to a penalty beginning in 2014 if the large employer does not make affordable coverage available to its "full-time employees." If the large employer does not make coverage available to an employee and the employee receives a premium tax credit to purchase his or her own insurance, the large employer is subject to a monthly penalty equal to \$2,000 divided by 12, multiplied by the number of full-time employees employed during the applicable month, not counting the first 30 full-time employees.

Section 2 of the bill repeals a reference to positions that have not existed within the Department of Transportation since 1993.

Sections 3 and 4 limit retirees from adding dependents during the plan year except for a qualifying event only, which is consistent with provisions that are applicable to active employees. **Section 4** also eliminates any preexisting condition limitations for employees, retirees and their dependents as required by federal law and adds language consistent with Section 1 with regards to determining when an employee is established as "full-time" pursuant to the Internal Revenue Code.

Section 5 makes a correction to reflect the proper title of G.S. 58-3-265.

Section 6 adds the State Health Plan to the law allowing an exemption for interest charges on past-due account receivables related to premium and claims payment. Currently, the University of North Carolina Health Care Systems, East Carolina University's Division of Health Sciences, and the NC Turnpike Authority are exempted from charging interest on past-due account receivables.

EFFECTIVE DATE: Sections 1 and 4 become effective January 1, 2014, and apply to plan years beginning on or after that date. Section 3 becomes effective July 1, 2013, and applies to plan years beginning on or after that date. The remainder of the act is effective when it becomes law.

**Amy Jo Johnson, staff to House Insurance, substantially contributed to this summary.*

O. Walker Reagan
Director



Research Division
(919) 733-2578

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 232
Committee Substitute Favorable 4/2/13
Committee Substitute #2 Favorable 5/15/13
PROPOSED SENATE COMMITTEE SUBSTITUTE H232-PCS80393-SH-23

Short Title: State Health Plan/Statutory Changes.-AB

(Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE STATE HEALTH
PLAN FOR TEACHERS AND STATE EMPLOYEES STATUTES, AS REQUESTED BY
THE STATE HEALTH PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.40(b)(1) reads as rewritten:

"(b) Partially Contributory Coverage. – The following persons are eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

(1) All ~~permanent~~ full-time employees of an employing unit ~~unit who meet either of the following conditions:~~

a. ~~Paid from general or special State funds.~~

b. ~~Paid from non State funds and in a group for which his or her employing unit has agreed to provide coverage.~~

~~Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision. For the purposes of this section, the full-time status of an employee will be determined by the employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended."~~

SECTION 2. G.S. 135-48.40(b)(2) is repealed.

SECTION 3. G.S. 135-48.42(e) reads as rewritten:

"(e) Eligible employees and retirees may only change their elections, including adding or removing dependents, during the Plan year due to a qualifying event as defined under federal law."

SECTION 4. G.S. 135-48.43 reads as rewritten:

"§ 135-48.43. Effective dates of coverage.

(a) Eligible Employees and Retired Employees. – Employees and retirees who otherwise satisfy the eligibility requirements set forth in G.S. 135-48.40 will be offered coverage with the following effective dates:

(1) Employees and retired employees covered under the Predecessor Plan will continue to be covered, subject to the terms hereof.



* H 2 3 2 - P C S 8 0 3 9 3 - S H - 2 3 *

(2) New employees may apply for coverage to be effective on the first day of the month following employment, ~~or on a like date the following month if the employee has enrolled the date that the employee is determined by the employing unit to be a full-time employee as defined in G.S. 135-48.40(b)(1) or, if later, the first day of any applicable stability periods established by the employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended.~~

(3) Employees ~~age 19 or older~~ not enrolling or adding dependents ~~age 19 and older~~ when first eligible in accordance with G.S. 135-48.42 may enroll later during annual enrollment, ~~but may be subject to a 12-month waiting period for a preexisting health condition,~~ except employees who elect to change their coverage in accordance with rules adopted by the State Treasurer for optional alternative plans offered under the Plan.

(4) Members of the General Assembly, beginning with the 1985 Session, shall become first eligible with the convening of each Session of the General Assembly, regardless of a Member's service during previous Sessions. Members and their dependents enrolled when first eligible after the convening of each Session of the General Assembly will not be subject to any waiting periods for preexisting health conditions. Members of the 1983 Session of the General Assembly, not already enrolled, shall be eligible to enroll themselves and their dependents on or before October 1, 1983, without being subject to any waiting periods for preexisting health conditions.

(b) Waiting Periods and Preexisting Conditions. –

...

(3) Retiring employees and dependents enrolled when first eligible after an employee's retirement are subject to no waiting period for preexisting conditions under the Plan. Retiring employees not enrolled or not adding dependents age 19 and older when first eligible after an employee's retirement may enroll at a later on the first of any following month, time during annual enrollment, but ~~will~~ may be subject to a 12-month waiting period for preexisting conditions except as provided in subdivision (a)(3) of this section.

...."

SECTION 5. G.S. 135-48.51 reads as rewritten:

"§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General Statutes.

The following provisions of Chapter 58 of the General Statutes apply to the State Health Plan:

...

(8) G.S. 58-3-250, Payment obligations for covered services.

(9) G.S. 58-3-265, ~~Payment obligations for covered services.~~ Prohibition on managed care provider incentives.

...."

SECTION 6. G.S. 147-86.23 reads as rewritten:

"§ 147-86.23. Interest and penalties.

A State agency shall charge interest at the rate established pursuant to G.S. 105-241.21 on a past-due account receivable from the date the account receivable was due until it is paid. A State agency shall add to a past-due account receivable a late payment penalty of no more than ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty for good cause shown. If another statute requires the payment of interest or a penalty on a

1 past-due account receivable, this section does not apply to that past-due account receivable.
2 This section does not apply to money owed to the University of North Carolina Health Care
3 System or to East Carolina University's Division of Health Sciences for health care ~~services or~~
4 services, to the North Carolina Turnpike Authority for money owed to the Authority for ~~tolls~~
5 tolls, or to the North Carolina State Health Plan for past-due account receivables related to
6 premiums and claims payments."

7 **SECTION 7.** Sections 1 and 4 become effective January 1, 2014, and apply to plan
8 years beginning on or after that date. Section 3 becomes effective July 1, 2013, and applies to
9 plan years beginning on or after that date. The remainder of this act is effective when it
10 becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 232
Committee Substitute Favorable 4/2/13
Committee Substitute #2 Favorable 5/15/13

Short Title: State Health Plan/Statutory Changes.-AB

(Public)

Sponsors:

Referred to:

March 7, 2013

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL AND OTHER CHANGES TO THE STATE HEALTH
PLAN FOR TEACHERS AND STATE EMPLOYEES STATUTES, AS REQUESTED BY
THE STATE HEALTH PLAN.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-48.40(b)(1) reads as rewritten:

"(b) Partially Contributory Coverage. – The following persons are eligible for coverage under the Plan, on a partially contributory basis, subject to the provisions of G.S. 135-48.43:

(1) All ~~permanent~~ full-time employees of an employing unit ~~unit who meet either of the following conditions:~~

a. ~~Paid from general or special State funds.~~

b. ~~Paid from non State funds and in a group for which his or her employing unit has agreed to provide coverage.~~

~~Employees of State agencies, departments, institutions, boards, and commissions not otherwise covered by the Plan who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision. For the purposes of this section, the full-time status of an employee will be determined by the employing unit in accordance with section 4980H of the Internal Revenue Code and the applicable regulations, as amended."~~

SECTION 2. G.S. 135-48.40(b)(2) is repealed.

SECTION 3. G.S. 135-48.42(e) reads as rewritten:

"(e) Eligible employees and retirees may only change their elections, including adding or removing dependents, during the Plan year due to a qualifying event as defined under federal law."

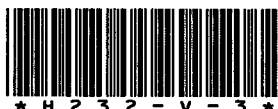
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"§ 135-48.43. Effective dates of coverage.

(a) Eligible Employees and Retired Employees. – Employees and retirees who otherwise satisfy the eligibility requirements set forth in G.S. 135-48.40 will be offered coverage with the following effective dates:

(1) Employees and retired employees covered under the Predecessor Plan will continue to be covered, subject to the terms hereof.

(2) New employees may apply for coverage to be effective on the first day of the month following employment, ~~or on a like date the following month if~~



~~the employee has enrolled the date that the employee is determined by the~~
~~employing unit to be a full-time employee as defined in~~
~~G.S. 135-48.40(b)(1) or, if later, the first day of any applicable stability~~
~~periods established by the employing unit in accordance with section 4980H~~
~~of the Internal Revenue Code and the applicable regulations, as amended.~~

(3) Employees ~~age 19 or older~~ not enrolling or adding dependents ~~age 19 and~~
~~older~~ when first eligible in accordance with G.S. 135-48.42 may enroll later
during annual enrollment, ~~but may be subject to a 12-month waiting period~~
~~for a preexisting health condition~~, except employees who elect to change
their coverage in accordance with rules adopted by the State Treasurer for
optional alternative plans offered under the Plan.

(4) Members of the General Assembly, beginning with the 1985 Session, shall
become first eligible with the convening of each Session of the General
Assembly, regardless of a Member's service during previous Sessions.
Members and their dependents enrolled when first eligible after the
convening of each Session of the General Assembly will not be subject to
any waiting periods for preexisting health conditions. Members of the 1983
Session of the General Assembly, not already enrolled, shall be eligible to
enroll themselves and their dependents on or before October 1, 1983,
without being subject to any waiting periods for preexisting health
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(b) Waiting Periods and Preexisting Conditions. –

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(3) Retiring employees and dependents enrolled when first eligible after an
employee's retirement are subject to no waiting period for preexisting
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**"§ 135-48.51. Coverage and operational mandates related to Chapter 58 of the General
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The following provisions of Chapter 58 of the General Statutes apply to the State Health
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State agency shall add to a past-due account receivable a late payment penalty of no more than
ten percent (10%) of the account receivable. A State agency may waive a late-payment penalty
for good cause shown. If another statute requires the payment of interest or a penalty on a
past-due account receivable, this section does not apply to that past-due account receivable.
This section does not apply to money owed to the University of North Carolina Health Care

1 System or to East Carolina University's Division of Health Sciences for health care ~~services or~~
2 ~~services~~, to the North Carolina Turnpike Authority for money owed to the Authority for ~~tolls~~.
3 tolls, or to the North Carolina State Health Plan for past-due account receivables related to
4 premiums and claims payments."

5 **SECTION 7.** Sections 1, 3, and 4 become effective July 1, 2013, and apply to plan
6 years beginning on or after that date. The remainder of this act is effective when it becomes
7 law.

VISITOR REGISTRATION SHEET

PENSIONS & Retirement
(Committee Name)

6/26/14
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Steve Trull	DST
Sam Warrs	NC Dept. of State Treasurer
Tony Colari	DST
Bill McMea	DSTrees
Ardis Watkins	SEANC
Noah Watkins	
Suzanne Brasley	SEANC
Chuck Store	SEANC
Adam Pridemore	NCAFA
Keith Richardson	City of Charlotte
William Jones	NCSFA
Dean Coward	NCSFA
Barry A Overman	NCSFA
Phil Welch	NC STATE FIREMEN'S ASSOC.
Brian Cox	NCSFA
Mary Beth	AARP-NC
Julian	Born: Asso.

VISITOR REGISTRATION SHEET

PENSIONS & Retirement
(Committee Name)

6/26/14
Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME	FIRM OR AGENCY
Tim Bradley	NC DOJ
Tom Friedman	OSI
Kevin S Gordon	NCSFA
Paul Miller	NCSFA
John Gaines	NCSFA
Vance Presnell, Jr.	NC Retired School Personnel
John C. Martocchio	NCPBA
Michelle Frasier	MFS
John Hardin	MFS
John TAYLOR	DPI
Kay Emanuel	School of Government
Ed BRINSON	NCSFA
David Anders	PFFPK
Meir Finkel	K+L Fink
Pam Heard	NCRSP
Rae Williams	NC DOJ
Matt Vise	CW Consult

VISITOR REGISTRATION SHEET

PENSIONS & Retirement
(Committee Name)

6/26/14
(Date)

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY</u>
Rob O'Brien	PFFPNC
Chris	RCCA

Sen. Tom Apodaca- Co-Chairman



Sen. Ralph Hise- Co-Chairman



Sen. David Curtis



Sen. Malcolm Graham



Sen. Rick Gunn



Sen. Ronald Rabin



Sen. Gene McLaurin



Sen. Shirley Randleman



Sen. Louis Pate



Sen. Michael Walters



Staff: Stanley Moore, Theresa Matula, Karen Cochrane-Brown

North Carolina General Assembly
Through Senate Committee on
Pensions & Retirement and Aging

2013-2014 Biennium
Leg. Day: H-162/S-163

Date: 09/03/2014
Time: 10:08:43 AM

Bill	Introducer	Short Title	Latest Action	Date In	Date Out
<u>H 161</u>	Glazier	Mandatory Retirement Age for Magistrates.	*R Ch. SL 2013-277	03/20/2013	06/25/2013
<u>H 176</u>	Alexander, Jr.	Charter School Election.	R Ch. SL 2013-279	04/22/2013	06/25/2013
<u>H 232</u>	Dockham	State Health Plan/Statutory Changes.-AB	*R Ch. SL 2013-324	05/16/2013	06/26/2013
<u>H 327</u>	Howard	Fire and Rescue Pension Revisions of 2013.-AB	*R Ch. SL 2013-284	05/02/2013	06/26/2013
<u>H 347</u>	Faircloth, Jr.	Amend Greensboro Fire Retirement/Charter.	*R Ch. SL 2013-252	05/06/2013	06/25/2013
<u>H 357</u>	Moffitt	Retirement Governance Changes Act of 2013.-AB	*R Ch. SL 2013-287	05/09/2013	06/26/2013
<u>H 358</u>	Moffitt	Retirement Technical Corrections.-AB	*R Ch. SL 2013-288	05/09/2013	06/26/2013
<u>H 359</u>	Moffitt	Retirement Administrative Changes Act of 2013.	*R Ch. SL 2013-405	05/16/2013	06/26/2013
<u>H 391</u>	Boles, Jr.	Volunteer Service in Retirement.	*R Ch. SL 2013-291	04/29/2013	06/25/2013
<u>H 402</u>	Szoka	TRICARE Supplement for Flex Accounts.	*R Ch. SL 2013-292	05/08/2013	06/25/2013
<u>H 551</u>	Davis, Jr.	Amend Wilmington Firefighters' Relief Fund.	*R Ch. SL 2013-222	05/14/2013	06/25/2013
<u>H 834</u>	Collins	Modern State Human Resources Management/RTR.	*R Ch. SL 2013-382	06/05/2013	06/25/2013
<u>H1034</u>	Howard	Volunteer Fire and Rescue Finances (PED).	*R Ch. SL 2014-64	06/19/2014	06/25/2014
<u>H1193</u>	Collins	Retirement Technical Corrections Act of 2014.	*R Ch. SL 2014-97	06/10/2014	07/17/2014
<u>H1194</u>	Collins	Retirement Admin. Changes Act of 2014.	*R Ch. SL 2014-112	06/10/2014	07/17/2014
<u>H1195</u>	Collins	Fiscal Integrity/Pension-Spiking Prevention.	R Ch. SL 2014-88	06/19/2014	07/17/2014

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North Carolina General Assembly
Through Senate Committee on
Pensions & Retirement and Aging

<u>S 49</u>	Bingham	Director of AOC Retirement Option.	S	Ref To Com On Pensions & Retirement and Aging	02/06/2013	
<u>S 246</u>	Randleman	Equal Tax Treatment of Gov't Retiree Benefits.	S	Ref to Pensions & Retirement and Aging. If fav, re-ref to Finance	03/12/2013	
<u>S 274</u>	Davis	Bereavement Leave/State and School Employees.	S	Ref To Com On Pensions & Retirement and Aging	03/13/2013	
<u>S 304</u>	Meredith	Fire and Rescue Pension Revisions of 2013.	*S	Re-ref Com On Appropriations/Base Budget	03/14/2013	05/02/2013
<u>S 346</u>	Hartsell	Career Fire and Rescue Retirement.	S	Ref To Com On Pensions & Retirement and Aging	03/19/2013	
<u>S 354</u>	Davis	Revise Auditor's Responsibilities.-AB	*R	Ch. SL 2013-373	03/20/2013	05/02/2013
<u>S 395</u>	Meredith	TRICARE Supplement for Flex Accounts.	S	Ref To Com On Pensions & Retirement and Aging	03/25/2013	
<u>S 558</u>	Hise	Treasurer's Investments.	*R	Ch. SL 2013-398	04/01/2013	05/02/2013
<u>S 599</u>	Apodaca	Retirement Technical Corrections.	S	Ref To Com On Pensions & Retirement and Aging	04/03/2013	
<u>S 616</u>	Brown	Volunteer Service in Retirement.	S	Ref To Com On Pensions & Retirement and Aging	04/03/2013	
<u>S 680</u>	Apodaca	Retirement Protection Act.	S	Ref To Com On Pensions & Retirement and Aging	04/03/2013	
\$ <u>S 744</u>	Brown	Appropriations Act of 2014.	*R	Ch. SL 2014-100	05/29/2014	05/29/2014
<u>S 878</u>	Hise	Retirement Investment Accountability.	S	Ref To Com On Pensions & Retirement and Aging	05/29/2014	

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

2013-2014 Biennium
Leg. Day: H-162/S-163

Date: 09/03/2014
Time: 10:09:14 AM

Bill	Introducer	Short Title		Latest Action	Date In	Date Out
<u>H 19</u>	Hastings	Respect our Fallen Heroes.	R	Ch. SL 2013-6	02/14/2013	02/26/2013
<u>H 24</u>	Moore	DV/Abuser Treatment Program/Amendments.	*R	Ch. SL 2013-123	02/18/2013	06/04/2013
<u>H 25</u>	Moore	Amend Felony Breaking or Entering.	R	Ch. SL 2013-95	02/14/2013	06/04/2013
<u>H 26</u>	Moore	Strengthen Laws/Vehicle Theft.	*R	Ch. SL 2013-323	05/14/2013	06/17/2013
<u>H 31</u>	Hurley	Amend Habitual DWI.	S	Re-ref Com On Judiciary I	03/20/2013	04/30/2013
<u>H 40</u>	Jackson	Amend Habitual DWI.	S	Re-ref Com On Judiciary I	03/20/2013	04/30/2013
<u>H 75</u>	Horn	Kilah's Law/Increase Child Abuse Penalties.	R	Ch. SL 2013-35	04/11/2013	04/16/2013
<u>H 92</u>	Blust	GSC Technical Corrections 2013.	*R	Ch. SL 2013-410	05/15/2013	06/24/2013
<u>H 95</u>	Torbett	Standard of Proof/Public Safety Dispatchers.	*S	Ref To Com On Judiciary II	03/12/2013	
<u>H 114</u>	Stevens	No SS# Req/Absolute Divorce.	*R	Ch. SL 2013-93	03/04/2013	05/30/2013
<u>H 137</u>	Stevens	Reward Amt/Arrest of Fugitive From Justice.	R	Ch. SL 2013-276	04/15/2013	06/18/2013
<u>H 142</u>	Daughtry	Provide Access to Campus Police Records.	*R	Ch. SL 2013-97	03/14/2013	05/30/2013
<u>H 149</u>	Hastings	Caylee's Law/Report Missing Children.	*R	Ch. SL 2013-52	04/09/2013	04/29/2013
<u>H 183</u>	Moore	Delay Transfer/Cleveland County Corr. Fac.	*R	Ch. SL 2014-19	03/20/2013	06/10/2014
<u>H 189</u>	Glazier	Amend Info./Child Supp. Orders.	*S	Re-ref Com On Rules and Operations of the Senate	03/20/2013	06/19/2014
<u>H 209</u>	Stevens	DV Orders/Findings Not Required.	*R	Ch. SL 2013-237	03/20/2013	06/10/2013
<u>H 217</u>	Faircloth, Jr.	Criminal Law/Procedure Amendments.	*S	Ref to Judiciary II. If fav, re-ref to Appropriations/Base Budget	05/08/2013	

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>H 219</u>	Glazier	Update References/Child Born Out of Wedlock.	*R	Ch. SL 2013-198	05/14/2013	06/10/2013
<u>H 281</u>	Cleveland	Record of Excusals From Jury Duty.	*S	Ref To Com On Judiciary II	05/14/2013	
<u>H 331</u>	Bryan, III	HOAs/Uniform Lien Procedure.	*R	Ch. SL 2013-202	05/02/2013	06/10/2013
<u>H 333</u>	Warren	Sex Offender Residency/Regis. Amendments.	*R	Ch. SL 2013-205	04/16/2013	06/13/2013
<u>H 345</u>	Faircloth, Jr.	Increase Penalties for Misuse of 911 System.	*R	Ch. SL 2013-286	06/12/2013	07/01/2013
<u>H 350</u>	Jordan	Court Improvem't Project Juv Law Changes.-AB	*R	Ch. SL 2013-129	04/09/2013	06/11/2013
<u>H 366</u>	Langdon, Jr.	NC Farm Act of 2014.	*R	Ch. SL 2014-103	06/17/2014	06/23/2014
<u>H 399</u>	Burr	Amend Laws Pertaining to DHHS.-AB	*R	Ch. SL 2013-378	05/29/2013	07/01/2013
<u>H 416</u>	Hurley	Increase Small Claims Amount.	S	Ref To Com On Judiciary II	04/10/2013	
<u>H 450</u>	Starnes	Criminal Contempt/Bail Procedure.	*R	Ch. SL 2013-303	05/16/2013	06/18/2013
<u>H 456</u>	Carney	DV Fatality Review Team/Mecklenburg Co.	*R	Ch. SL 2013-70	04/15/2013	06/04/2013
<u>H 458</u>	McElraft	Public Hospital Conveyances.	*S	Re-ref Com On Judiciary II	06/26/2014	
<u>H 465</u>	McNeill	No Possession of Firearms/Undocumented Aliens.	*S	Re-ref Com On Finance	05/16/2013	06/11/2013
<u>H 477</u>	Lambeth	Allison's Law/Use of GPS Tracking Device/DVPO.	*S	Ref To Com On Judiciary II	05/14/2013	
<u>H 510</u>	Cotham	Foster Care Children's Bill of Rights.	*R	Ch. SL 2013-326	04/15/2013	06/24/2013
<u>H 532</u>	Elmore	No Drinking in EMS & Law Enforcement Vehicles.	*R	Ch. SL 2013-105	05/07/2013	05/30/2013
<u>H 533</u>	Jordan	Detention of Mentally Ill in Facility.	*R	Ch. SL 2013-114	05/16/2013	06/13/2013
<u>H 585</u>	Lewis	PREA Compliance.	*S	Re-ref Com On Appropriations/Base Budget	05/09/2013	06/04/2013
<u>H 593</u>	Daughtry	Register of Deeds Hours.	*S	Re-ref Com On Rules and Operations of the Senate	05/14/2013	05/30/2013

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>H 597</u>	Malone	Bail Bondsman/Official Shield.	*R	Ch. SL 2013-209	04/23/2013	06/10/2013
<u>H 611</u>	Brawley, Jr.	Suspension Removed When Eligibility Met.	*R	Ch. SL 2013-133	05/08/2013	06/11/2013
<u>H 615</u>	Ramsey	Remove Revocation for DWLR.	*S	Re-ref Com On Appropriations/Base Budget	05/15/2013	07/01/2013
<u>H 618</u>	Speciale	Amend Firearm Restoration Law.	*S	Re-ref Com On Judiciary II	06/04/2014	06/10/2014
<u>H 618</u>	Speciale	Amend Firearm Restoration Law.	*S	Re-ref Com On Judiciary II	06/16/2014	
<u>H 635</u>	Lambeth	Involuntary Commitment Custody Orders.	*R	Ch. SL 2013-308	05/01/2013	07/01/2013
<u>H 641</u>	Davis, Jr.	Amend Conditional Discharge/1st Drug Offense.	*R	Ch. SL 2013-210	04/24/2013	05/30/2013
<u>H 656</u>	McNeill	Forfeiture for Speeding to Elude Revisions.	*R	Ch. SL 2013-243	05/13/2013	06/17/2013
<u>H 698</u>	Saine	Background Checks for Firefighters.	*R	Ch. SL 2014-27	05/13/2013	06/10/2014
<u>H 762</u>	Hardister	Amend Certain Bail Bond Procedures.	R	Ch. SL 2013-139	05/06/2013	06/06/2013
<u>H 777</u>	Jackson	Sex Offender/Expand Residential Restrictions.	*R	Ch. SL 2014-21	05/15/2013	06/10/2014
<u>H 783</u>	Starnes	Pyrotechnics Technical and Conforming Changes.	*R	Ch. SL 2013-275	06/06/2013	07/01/2013
<u>H 784</u>	Stone	Worthless Check/Present Cashed Check.	*R	Ch. SL 2013-244	05/09/2013	06/17/2013
<u>H 802</u>	Earle	Landlord/Tenant/Shorten Eviction Time.	*R	Ch. SL 2013-334	05/14/2013	07/01/2013
<u>H 813</u>	Horn	Ban Synthetic Cannabinoids.	*R	Ch. SL 2013-109	05/14/2013	05/30/2013
<u>H 850</u>	McNeill	Possession of Needles/Tell Law Officer.	*R	Ch. SL 2013-147	05/14/2013	06/11/2013
<u>H 879</u>	Davis, Jr.	Grand Jurors/Service.	*R	Ch. SL 2013-148	05/01/2013	06/11/2013
<u>H 891</u>	Glazier	Exploitation of Srs/Freeze Defendant's Assets.	*R	Ch. SL 2013-203	05/15/2013	06/13/2013
<u>H 923</u>	Hall	Specify Time/Reinstate License/Child Support.	S	Ref To Com On Judiciary II	05/15/2013	
<u>H 926</u>	Bryan, III	Notaries/Private Right of Action.	*S	Ref To Com On Judiciary II	05/15/2013	

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>H1027</u>	Torbett	DWI Interlock Violation/DMV Hearing Site.	*S	Re-ref Com On Rules and Operations of the Senate	06/11/2014	06/23/2014
<u>H1076</u>	Burr	Reduce Hard Copies/Appellate Div. Reports.	*S	Ref To Com On Judiciary II	06/10/2014	
<u>H1087</u>	Davis, Jr.	Preserve Biological Evidence/Study.	*S	Ref To Com On Judiciary II	06/10/2014	
<u>H1090</u>	Davis, Jr.	AOC Information Technology Policy.	S	Ref To Com On Judiciary II	06/19/2014	
<u>H1091</u>	Davis, Jr.	Study Supervision of Magistrates.	S	Ref To Com On Judiciary II	06/19/2014	
<u>H1092</u>	Davis, Jr.	Enforce Payment of Criminal Mediation Fee.	*S	Ref To Com On Judiciary II	06/11/2014	
<u>H1103</u>	Stevens	Verification/Jurisdiction in Juvenile Cases.	R	Ch. SL 2014-16	05/30/2014	06/10/2014
<u>H1246</u>	Conrad	Armed Detention Officers/Forsyth County.	*S	Ref To Com On Judiciary II	06/19/2014	
<u>H1250</u>	Stevens	Amend Definition of Dangerous Firearm.	S	Ref To Com On Judiciary II	06/17/2014	
<u>H1252</u>	Brisson	Unneeded Ambulance/Bladen & Columbus.	S	Ref To Com On Judiciary II	06/17/2014	
<u>S 16</u>	Bingham	Revoke License for Passing Stopped School Bus.	*H	Ref To Com On Transportation	01/31/2013	02/25/2013
<u>S 17</u>	Bingham	Concealed Carry Permits/Validity.	S	Ref To Com On Judiciary II	01/31/2013	
<u>S 20</u>	Bingham	Good Samaritan Law/Naloxone Access.	*R	Ch. SL 2013-23	01/31/2013	03/04/2013
<u>S 28</u>	Bingham	Gun Permit Information/No Publication.	S	Ref To Com On Judiciary II	02/04/2013	
<u>S 33</u>	Hartsell	Use of Criminal History Records by Lic. Bds.	*R	Ch. SL 2013-24	02/04/2013	03/04/2013
<u>S 50</u>	Bingham	Discharged Veterans/Identity Theft Protection.	*R	Ch. SL 2013-15	02/06/2013	02/12/2013
<u>S 54</u>	Graham	Time for Recording Foreclosure Notice.	S	Re-ref Com On Judiciary II	02/06/2013	02/19/2013
<u>S 54</u>	Graham	Time for Recording Foreclosure Notice.	S	Re-ref Com On Judiciary II	03/07/2013	
<u>S 59</u>	Rabin	Armed Security Guards in K-12.	S	Re-ref Com On Judiciary II	05/02/2013	
<u>S 61</u>	Curtis	Nuclear Security Guards No Liability.	S	Ref To Com On Judiciary II	02/07/2013	

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>S 70</u>	Tarte	Kilah's Law Increase Child Abuse Penalties.	S	Re-ref Com On Appropriations/Base Budget	02/11/2013	02/26/2013
<u>S 87</u>	Daniel	DV Abuser Treatment Program/Notifications.	S	Ref To Com On Judiciary II	02/14/2013	
<u>S 91</u>	Daniel	Prohibit Expunction Inquiry.	*R	Ch. SL 2013-53	02/18/2013	03/04/2013
<u>S 101</u>	Hartsell	WC/Inflation Indexing for Organ Injury/Loss.	*H	Re-ref Com On Judiciary Subcommittee B	02/20/2013	04/30/2013
<u>S 117</u>	Gunn	Lily's Law.	*R	Ch. SL 2013-47	02/21/2013	03/12/2013
<u>S 123</u>	Meredith	Clarify Sex Offender Residence Law.	R	Ch. SL 2013-28	02/25/2013	03/07/2013
<u>S 174</u>	Brown	Disapprove Industrial Commission Rules.	*R	Ch. SL 2013-294	03/18/2013	05/09/2013
<u>S 206</u>	Davis	Strengthen Controlled Sub. Reporting System.	S	Re-ref Com On Judiciary II	04/10/2013	
<u>S 222</u>	Allran	Revise Controlled Substances Reporting.	*R	Ch. SL 2013-152	03/27/2013	04/15/2013
<u>S 225</u>	Newton	Adopt Uniform Deployed Parent Cust/Visit. Act.	S	Re-ref Com On Judiciary I	03/07/2013	03/11/2013
<u>S 252</u>	Davis	Increase Penalty/Controlled Substance Crimes.	*R	Ch. SL 2013-90	03/12/2013	05/07/2013
<u>S 253</u>	Davis	LEO May Inspect Pharmaceutical Records.	S	Re-ref Com On Judiciary II	04/10/2013	
<u>S 285</u>	Davis	DWI Cases/No ILAC Required.	*R	Ch. SL 2013-194	04/11/2013	05/02/2013
<u>S 286</u>	Davis	Mandate Use/Controlled Sub. Reporting System.	S	Re-ref Com On Judiciary II	04/10/2013	
<u>S 292</u>	Brunstetter	Immediate License Revocation for Refusal.	*S	Re-ref Com On Appropriations/Base Budget	03/14/2013	05/13/2013
<u>S 293</u>	Parmon	WC/Subrogation/Employer Consent.	S	Re-ref Com On Judiciary II	03/18/2013	
<u>S 316</u>	McKissick	Pretrial Release/Rebuttable Presumption.	*R	Ch. SL 2013-298	03/14/2013	03/28/2013
<u>S 368</u>	Bingham	County/Sheriff Fee Changes/Felony Escape.	*R	Ch. SL 2013-389	03/20/2013	03/26/2013
<u>S 369</u>	Bingham	Name Change Requirements for Minors.	*R	Ch. SL 2013-42	03/20/2013	04/03/2013

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>S 388</u>	Rabin	Unemployment Insurance Law Changes - 2.	*H	Re-ref Com On Finance	04/03/2013	04/09/2013
<u>S 399</u>	Brunstetter	Criminal Defendant May Waive Jury Trial.	*R	Ch. SL 2013-300	03/25/2013	04/23/2013
<u>S 401</u>	Tucker	Share Arrest Warrant Status/Pub. Assistance.	S	Ref to Judiciary II. If fav, re-ref to Health Care	03/26/2013	
<u>S 409</u>	Tarte	Assess Costs/Restraining Orders.	*R	Ch. SL 2013-390	03/26/2013	05/13/2013
<u>S 434</u>	Rabon	Ignition Interlock Req'd / All DWIs.	S	Re-ref to Judiciary I. If fav, re-ref to Finance. If fav, re-ref to Appropriations/Base Budget	03/27/2013	04/30/2013
<u>S 438</u>	Clodfelter	Interpreting Services in the Courts.	S	Ref To Com On Judiciary II	03/27/2013	
<u>S 441</u>	Bingham	State Highway Patrol/Reside in Same County.	S	Ref To Com On Judiciary II	03/27/2013	
<u>S 443</u>	Brock	Disposition of Abandoned Firearms.	*R	Ch. SL 2013-158	03/27/2013	05/02/2013
<u>S 452</u>	Goolsby	Jurisdictional Amts/Arbitration/Sm Claims Ct.	*R	Ch. SL 2013-159	03/27/2013	04/16/2013
<u>S 455</u>	Cook	Increased Penalty/Seed Law Violations.-AB	*R	Ch. SL 2013-345	04/09/2013	04/23/2013
<u>S 462</u>	Woodard	Equal Access to Civil Judgment Executions.	S	Ref to Judiciary II. If fav, re-ref to Finance	03/28/2013	
<u>S 465</u>	McKissick	Prohibit Use of Tax Zapper Software.	*R	Ch. SL 2013-301	03/28/2013	05/07/2013
<u>S 527</u>	Bingham	Trespass on School Grounds.	S	Ref To Com On Judiciary II	04/01/2013	
<u>S 537</u>	Kinnaird	Amend Sentencing/Drug Violations.	S	Ref To Com On Judiciary II	04/01/2013	
<u>S 540</u>	Clodfelter	Modify Exemptions/Fraternal Ins. Benefits.	S	Ref To Com On Judiciary II	04/01/2013	
<u>S 553</u>	Hise	LME/MCO Enrollee Grievances & Appeals.	*R	Ch. SL 2013-397	05/02/2013	05/09/2013
<u>S 574</u>	Randleman	Groundwater Contamination/Modify Response.	*R	Ch. SL 2014-17	04/02/2013	05/02/2013
<u>S 585</u>	Clodfelter	Amend DWLR Law.	S	Ref To Com On Judiciary II	04/03/2013	
<u>S 594</u>	Davis	Omnibus Justice Amendments.	*S	Ref To Com On Rules and Operations of the Senate	04/03/2013	04/10/2013

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North Carolina General Assembly
Through Senate Committee on
Judiciary II

<u>S 610</u>	Clodfelter	Presumed Shared Parenting.	S	Ref To Com On Judiciary II	04/03/2013	
<u>S 634</u>	Newton	Increase Penalties/Utilities Theft.	*R	Ch. SL 2013-88	04/03/2013	05/02/2013
<u>S 636</u>	Newton	Wildlife Resources Comm. Penalty Changes.	*S	Re-ref Com On Judiciary I	05/07/2013	05/13/2013
<u>S 676</u>	Daniel	10 Yr. Min for 2nd Gun Felony Conviction.	*S	Re-ref Com On Rules and Operations of the Senate	04/03/2013	05/13/2013
<u>S 740</u>	Jackson	DPS Study Commercial Vehicle Safety Alliance.	S	Sequential Referral To Agriculture/Environment/Natural Resources Added	06/16/2014	
<u>S 764</u>	Bingham	Motor Vehicle Civil Penalty/District Court.	S	Ref to Judiciary II. If fav, re-ref to Finance	05/15/2014	
<u>S 821</u>	Randleman	Verification/Jurisdiction in Juvenile Cases.	S	Ref To Com On Judiciary II	05/22/2014	
<u>S 837</u>	Bingham	Criminal Background Check for Notaries Public.	S	Ref To Com On Judiciary II	05/22/2014	
\$ <u>S 854</u>	Meredith	Establish Urban Search & Rescue Program.	S	Ref to Judiciary II. If fav, re-ref to Appropriations/Base Budget	05/28/2014	
\$ <u>S 858</u>	Robinson	Amend Expunction Laws.	S	Ref to Judiciary II. If fav, re-ref to Appropriations/Base Budget	05/28/2014	

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Senate Committee on Pensions & Retirement and Aging
Thursday, May 29, 2014 at 3:00 PM
Room 1027/1128 of the Legislative Building

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 3:00 PM on May 29, 2014 in Room 1027/1128 of the Legislative Building. 8 members were present.

Senator Tom Apodaca, Chair, presided.

S744 Appropriations Act of 2014 Staff member, David Vanderweide, explained the two provisions of the budget that affected pensions and retirement: Firefighters and COLA's to retirees. There was a Retirement Note that was reflected in the bill.

Sen. Pate moved to amend the bill to add two positions to the Treasurer's office to the oversight department of the retirement system. No discussion. Amendment was adopted.

Sen. Hise move for an Unfavorable as to the Committee Sub 1, as amended unengrossed, but Favorable as to Committee Substitute No. 2

The meeting adjourned at 3:10 PM.



Senator Tom Apodaca, Chair
Presiding



Andy Perrigo, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Thursday, May 29, 2014

Senator Apodaca,
submits the following with recommendations as to passage:

**UNFAVORABLE AS TO COMMITTEE SUBSTITUTE NO. 1, AS AMENDED UN-
ENGROSSED, BUT FAVORABLE AS TO COMMITTEE SUBSTITUTE NO. 2**

SB 744 (CS#1)

Appropriations Act of 2014.

Draft Number: S744-PCS35556-MDxf-30

Sequential Referral: None

Recommended Referral: None

Long Title Amended: Yes

TOTAL REPORTED: 1

Senator Harry Brown will handle SB 744





NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

Page 1 of 1

S744-AME-54 [v.1]

Comm. Sub. [YES]

Amends Title [NO]

S744-PCS35555-MDxf-29

Date May 29, 2014

Senator

Pate

1 moves to amend the bill on page 229, line 32, by deleting that line and substituting the
2 following:

3
4 "PART XXXIII. DEPARTMENT OF STATE TREASURER

5
6 RECEIPT-SUPPORTED COMPLIANCE POSITIONS FOR RETIREMENT SYSTEM

7 SECTION 33.1. Two receipt-supported positions are hereby created in the
8 Department of State Treasurer, Retirement Systems Division, in order to staff a compliance
9 unit within the Division. The unit is tasked with reducing the risk of fraud, abuse, and waste
0 within the retirement systems. Receipts for the positions may come from investment income
1 from, contributions to, or other assets of the retirement systems managed by the Department.
2 The Department may use up to two hundred twenty-five thousand dollars (\$225,000) to fund
3 these two positions."

SIGNED

Louis M. Pate
Amendment Sponsor

SIGNED

[Signature]
Committee Chair if Senate Committee Amendment

ADOPTED ☒

FAILED ☐

TABLED ☐



* S 7 4 4 - A M E - 5 4 - V - 1 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMH-52 [v.3]

Page 1 of 3

Comm. Sub. [YES]
Amends Title [NO]
S744-PCS35555- MDxf-29

Date _____, 2014

Senator Harrington

1 moves to amend the bill on page 244, line 33, by inserting the following language after that
2 line:

3 **SECTION 34.25(a).** G.S. 136-200.2 reads as rewritten:

4 "...
5 (g) Ethics Provisions. – All individuals with voting authority serving on a metropolitan
6 planning organization who are not members of the Board of Transportation shall do all of the
7 following:

8 ...
9 (4) File, with and in the same manner as the statement of economic interest filed
10 under subdivision (3) of this subsection, an additional disclosure of a list of
11 all real estate owned wholly or in part by the MPO member, the MPO
12 member's extended family, or a business with which the MPO member is
13 associated within the jurisdiction of the MPO on which the MPO member is
14 serving. All additional disclosures of real estate filed by MPO members are
15 public records under Chapter 132 of the General Statutes. The penalties for
16 failure to file shall be as set forth in G.S. 138A-25(d).

17 ...
18 (j) Violations. – A violation of subdivision (1) of subsection (g) of this section shall be
19 a Class 1 misdemeanor. An MPO member who knowingly conceals or knowingly fails to
20 disclose information that is required to be disclosed on a required filing under subdivisions (3)
21 or (4) of subsection (g) of this section shall be guilty of a Class 1 misdemeanor. An MPO
22 member who provides false information on a required filing under subdivisions (3). or (4) of
23 subsection (g) of this section knowing that the information is false is guilty of a Class H felony.
24 If the State Ethics Commission receives written allegations of violations of this section, the
25 Commission shall report such violations to the Attorney General for investigation and referral
26 to the District Attorney for possible prosecution. All written allegations or related documents
27 are confidential and are not matters of public record.

28 "...
29 **SECTION 34.25.(b)** G.S. 136-211 reads as rewritten:

30 "..."



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMH-52 [v.3]

Page 2 of 3

1 (f) Ethics Provisions. – All individuals with voting authority serving on a rural
2 transportation planning organization who are not members of the Board of Transportation shall
3 do all of the following:

4 ...
5 (4) File, with and in the same manner as the statement of economic interest filed
6 under subdivision (3) of this subsection, an additional disclosure of a list of
7 all real estate owned wholly or in part by the rural transportation planning
8 organization member, the rural transportation planning organization
9 member's extended family, or a business with which the rural transportation
10 planning organization member is associated within the jurisdiction of the
11 rural transportation planning organization on which the rural transportation
12 planning organization member is serving. All additional disclosures of real
13 estate filed by members are public records under Chapter 132 of the General
14 Statutes. The penalties for failure to file shall be as set forth in
15 G.S. 138A-25(d).

16 ...
17 (j) Violations. – A violation of subdivision (1) of subsection (f) of this section shall be
18 a Class 1 misdemeanor. A rural transportation planning organization member who knowingly
19 conceals or knowingly fails to disclose information that is required to be disclosed on a
20 required filing under subdivisions (3) or (4) of subsection (f) of this section shall be guilty of a
21 Class 1 misdemeanor. A rural transportation planning organization member who provides false
22 information on a required filing under subdivisions (3) or (4) of subsection (f) of this section
23 knowing that the information is false is guilty of a Class H felony. If the State Ethics
24 Commission receives written allegations of violations of this section, the Commission shall
25 report such violations to the Attorney General for investigation and referral to the District
26 Attorney for possible prosecution. All written allegations or related documents are confidential
27 and are not matters of public record.

28 ..."

29 **SECTION 34.25.(c)** G.S. 138A-25 is amended by adding the following new
30 sections to read:

31 (d) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify
32 persons who are required to file a Statement of Economic Interest under G.S. 136-200.2(g)(3)
33 or G.S. 136-211(f)(3) of a failure to file the Statement of Economic Interest or the filing of an
34 incomplete Statement of Economic Interest. The Commission shall notify the filing person that
35 if the Statement of Economic Interest is not filed or completed within 30 days of receipt of the
36 notice of failure to file or complete, the filing person shall be fined and referred for prosecution
37 after an additional 30 days, as provided for in this section.

38 (1) Any filing person who fails to file a Statement of Economic Interest under
39 G.S. 136-200.2(g)(3) or G.S. 136-211(f)(3) within 30 days of the receipt of
40 the notice required under this section shall be fined two hundred fifty dollars
41 (\$250.00) by the Commission for not filing or filing an incomplete
42 Statement of Economic Interest, except in extenuating circumstances as
43 determined by the Commission.

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMH-52 [v.3]

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(2) Failure by any filing person to file or complete the Statement of Economic Interest within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Attorney General for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist.

(e) Within 30 days after the date due under G.S. 138A-22, the Commission shall notify persons who are required to file an additional disclosure under G.S. 136-200.2(g)(4) or 136-34 211(f)(4) of a failure to file the additional disclosure or the filing of an incomplete additional disclosure. The Commission shall notify the filing person that if the additional disclosure is not filed or completed within 30 days of receipt of the notice of failure to file or complete, the filing person shall be fined and referred for prosecution after an additional 30 days, as provided for in this section.

(1) Any filing person who fails to file or who files an incomplete additional disclosure within 30 days of the receipt of the notice required under this section shall be fined two hundred fifty dollars (\$250.00) for not filing or filing an incomplete additional disclosure, except in extenuating circumstances as determined by the Commission.

(2) Failure by any filing person to file or complete the additional disclosure within 60 days of the receipt of the notice required under this subsection shall be a Class 1 misdemeanor. The Commission shall report such failure to the Attorney General for investigation and referral to the District Attorney for possible prosecution, unless the Commission determines extenuating circumstances exist."

SECTION 34.25.(d) This section is effective October 1, 2014, and applies to obligations to file additional disclosures arising on or after that date.

SIGNED Kathy Hagan
Amendment Sponsor

SIGNED [Signature]
Committee Chair if Senate Committee Amendment

ADOPTED J FAILED _____ TABLED _____



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-ALH-63 [v.2]

Page 1 of 3

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____, 2014

Senator Ford

1 moves to amend the bill on page 18, lines 45-46
2 by inserting between those lines the following:

3 "FISCAL RESPONSIBILITY IN BUDGETING

4 SECTION 6.11.(a) G.S. 143C-5-3 reads as rewritten:

5 '§ 143C-5-3. ~~Availability statement~~ Statements of revenue, expenses, and statutory
6 compliance required.

7 (a) In Act. — The Current Operations Appropriations Act enacted by the General
8 Assembly shall ~~state the General Fund, Highway Fund, and Highway Trust Fund availability~~
9 ~~used as basis for appropriations from those funds~~ set out all of the following information:

- 10 (1) The availability used as a basis for appropriations from the General Fund,
11 the Highway Fund, and the Highway Trust Fund.
12 (2) The amount of nonrecurring revenue the act appropriates from the General
13 Fund, the Highway Fund, and the Highway Trust Fund for recurring
14 expenses and the recurring source of revenue that is expected to support the
15 recurring expenses in the next five fiscal years.
16 (3) The amount required by G.S. 143C-4-2 to be reserved to the Savings
17 Reserve Account, the difference in the amount the statute requires and the
18 act reserves, and the target amount set by statute for the Account.
19 (4) The amount required by G.S. 143C-4-3 to be reserved to the Repairs and
20 Renovations Reserve, the difference in the amount the statute requires and
21 the act reserves, the amount needed to meet the repair and renovations
22 requirements for that year as identified in the most recent six-year capital
23 improvement plan submitted by the Director under G.S. 143C-8-5, and the
24 amount equal to one percent (1%) of the valuation of State buildings
25 supported by the Reserve.

26 (b) In Committee Report. — The committee report that accompanies the Current
27 Operations Appropriations Act enacted by the General Assembly shall include a budget outlook
28 that forecasts the anticipated revenue and expenses of the General Fund, the Highway Fund,
29 and the Highway Trust Fund for the upcoming five-year period. The forecast shall state the
30 assumptions on which it is based and shall separately identify the expenses of any new program
31 or program that is expanded by more than ten percent (10%). Anticipated expenses include all
32 of the following:



* S 7 4 4 - A L H - 6 3 - V - 2 *

8:58

2

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

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(to be filled in by
Principal Clerk)

S744-ALH-63 [v.2]

Page 2 of 3

- 1 (1) Those required to be included in a continuation budget.
2 (2) Those considered necessary by the Controller to provide a realistic forecast.
3 (3) A step increase in pay for each year for teachers and State employees paid
4 on a stepped salary schedule that are eligible for an experience-based step
5 and a pay increase of at least one percent (1%) for all State employees not
6 paid on a stepped salary schedule.'

7 **SECTION 6.11.(b) G.S. 143C-3-5 reads as rewritten:**

8 **'§ 143C-3-5. Budget recommendations and budget message.**

9
10 (e) ~~Availability Estimates. Revenue Information.~~ – The recommended Current
11 Operations Appropriations Act shall contain ~~a statement showing the estimates of General Fund~~
12 ~~availability, Highway Fund availability, and Highway Trust Fund availability upon which the~~
13 ~~Recommended State Budget is based.~~ the information on revenue and expenses required by
14 G.S. 143C-5-3(a).

15 (f) Budget Message. – The Governor's budget recommendations shall be accompanied
16 by a written budget message that does all of the following:

- 17 (1) Explains the goals embodied in the recommended budget.
18 (2) Explains important features of the activities anticipated in the budget.
19 (3) Explains the assumptions underlying the statement of revenue availability.
20 (4) Sets forth the reasons for changes from the previous biennium or fiscal year,
21 as appropriate, in terms of programs, program goals, appropriation levels,
22 and revenue yields.
23 (5) Identifies anticipated sources of funding for major spending initiatives.
24 (6) ~~Prepares a fiscal analysis that addresses the~~ Provides a forecast of the State's
25 budget outlook for the upcoming five-year period. period that includes the
26 information required in G.S. 143C-5-3. This fiscal analysis shall include
27 ~~detailed estimates for five years for any proposals to create new or~~
28 ~~significantly expand programs and for proposals to create new or change~~
29 ~~existing law.~~

30
31 **SECTION 6.11.(c) G.S. 120-36.7(a) reads as rewritten:**

32 '(a) Budget Outlook; Proposed Legislation. – Every fiscal analysis or forecast of the
33 State budget outlook shall encompass the upcoming five-year period. Every fiscal analysis of
34 the impact of proposed legislation on the State budget shall estimate the impact for the first five
35 fiscal years the legislation would be in effect."
36

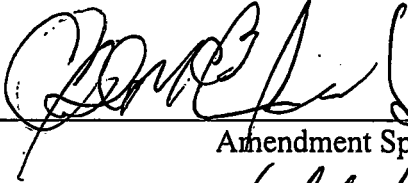
NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-ALH-63 [v.2]

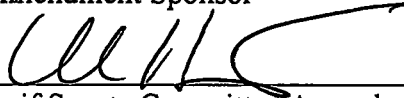
Page 3 of 3

SIGNED



Amendment Sponsor

SIGNED



Committee Chair if Senate Committee Amendment

ADOPTED

☒

FAILED

TABLED



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-ALG-45 [v.4]

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
S744-PCS35555-MDXf-29

Date _____, 2014

Senator Tucker

1 moves to amend the bill on page 221, lines 24-25, by inserting between those lines a new
2 section to read:

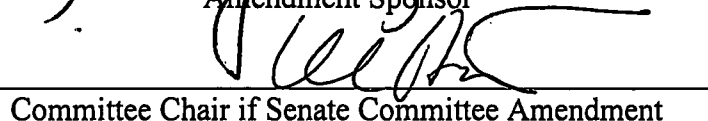
3
4 **"DCR TO STUDY THE FEASIBILITY OF DESIGNATING THE AVERASBORO**
5 **BATTLEFIELD AS A STATE HISTORIC SITE**

6 **SECTION 19.3.** The Department of Cultural Resources shall study the feasibility
7 of designating the Averasboro Battlefield as a State Historic Site. The Department shall submit
8 the results of its study to the 2015 General Assembly upon its convening."

SIGNED


Amendment Sponsor

SIGNED


Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

9:06

3



* S 7 4 4 - A L G - 4 5 - V - 4 *



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-ALH-64 [v.4]

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
PCS35555-MDxf-29

Date _____, 2014

Senator Apodaca

1 moves to amend the Senate Appropriations Committee Report dated May 29, 2014,
2 on page F-11 by adding the following two new items:

3 "
4 "42 Appalachian State University – Health Sciences Building FY 14-15
\$2,000,000 NR

5 Funds advance planning for Appalachian State University's
6 College of Nursing and Health Sciences Building. The
7 200,000 sq. ft. facility will be constructed in association with
8 the Watauga Medical Center. This project received \$2 million
9 in non-recurring planning funds in FY 2013-14; the project's
10 total cost is estimated to be \$80.2 million.

11
12 43 NC Need-based Scholarship (\$2,000,000 NR)
13 Reduces funding for the NC Need-based Scholarship
14 program for private college students by 2.3%. Total
15 program funding for FY 2014-15 will be \$84,351,588. ";

16
17 And by adjusting the appropriate totals accordingly.
18
19

SIGNED _____

Amendment Sponsor

SIGNED _____

Committee Chair if Senate Committee Amendment

ADOPTED ☒

FAILED _____

TABLED _____



* S 7 4 4 - A L H - 6 4 - V - 4 *

9:30

4



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMH-49 [v.1]

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
PCS35555-MDxf-29

Date _____, 2014

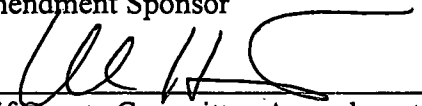
Senator Brock

1 moves to amend the Senate Appropriations Committee Report dated May 29, 2014,
2 on page H-2, by deleting items 7 and 10 and by increasing the recurring reduction in item 9 by
3 three hundred twenty-five thousand three hundred seven dollars (\$325,307);
4
5 and on page H-3, by deleting items 11 and 12;
6
7 and on page H-4, by deleting item 17 and by reducing the nonrecurring expansion in item 19 by
8 two hundred fifty-one thousand seven hundred seventy-eight dollars (\$251,778);
9
10 and on page H-5, by reducing the nonrecurring increase in item 23 by three hundred eighteen
11 thousand two hundred fifty-four dollars (\$318,254);
12
13 and on page H-13, by increasing the nonrecurring expansion in item 58 by five hundred seventy
14 thousand thirty-two dollars (\$570,032) and by decreasing the recurring expansion in item 58 by
15 five hundred seventy thousand thirty-two dollars (\$570,032);
16
17 and by adjusting the appropriate totals accordingly.
18

SIGNED


Amendment Sponsor

SIGNED


Committee Chair if Senate Committee Amendment

ADOPTED

☒

FAILED

TABLED



* S 7 4 4 - A M H - 4 9 - V - 1 *

9:38
5



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMK-63 [v.1]

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
PCS

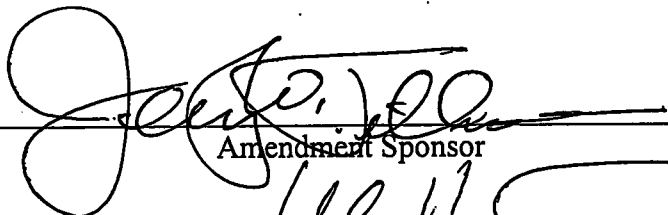
Date _____, 2014

Senator Tillman

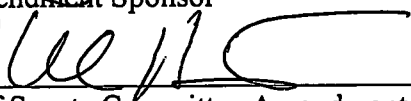
1 moves to amend the bill on page 34, line 45, by rewriting that line to read:

2
3 "Carolina Center for the Advancement of Teaching, the Eastern North Carolina School for the
4 Deaf, and the North Carolina School for the Deaf, and shall make no reduction in funding to".
5
6

SIGNED


Amendment Sponsor

SIGNED


Committee Chair if Senate Committee Amendment

ADOPTED

☒

FAILED

TABLED



* S 7 4 4 - A M K - 6 3 - V - 1 *

9:44

6



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMK-64 [v.2]

Page 1 of 1

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____, 2014

Senator Tillman

1 moves to amend the Senate Appropriations Committee report dated May 29, 2014, on page F-7
2 by adding the following two new items:

3 "
4 **"31 Manufacturing Solutions Center** **FY 14-15**
5 **\$150,000 R**
6 Provides additional funding for the Manufacturing Solutions Center at Catawba Valley
7 Community College. Annual funding for this program will be \$846,922.

8 **"32 Textile Technology Center** **\$150,000 R**
9 Provides additional funding for the Textile Technology Center at Gaston College. Annual
10 funding for this program will be \$653,954."; and

11
12 on page F-7, by reducing the recurring increase in item 27 by three hundred thousand dollars
13 (\$300,000);

14
15 And by adjusting the appropriate totals accordingly.

16
17
18
19
SIGNED


Amendment Sponsor

SIGNED


Committee Chair if Senate Committee Amendment

ADOPTED

☒ FAILED

TABLED



* S 7 4 4 - A M K - 6 4 - V - 2 *

9:44
7



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AMD-57 [v.4]

Page 1 of 2

Comm. Sub. [NO]
Amends Title [NO]
PCS

Date _____, 2014

Senator Apodaca

1 moves to amend the bill on page 169, line 10, by inserting immediately after the line a new
2 section to read:

3 **"STUDY OF FUTURE USE OF BROUGHTON FACILITIES**

4 **SECTION 15.20.(a)** Upon the Department of Commerce's raising of the sum of
5 two hundred thousand dollars (\$200,000) in non-State funds for the study described in
6 subsection (b) of this section, the Department shall use those funds, together with the sum of
7 two hundred thousand dollars (\$200,000) of funds appropriated to the Rural Economic
8 Development Division in fund code 1534 for the 2014-2015 fiscal year, to conduct the study
9 described in subsection (b) of this section.

10 **SECTION 15.20.(b)** The Department of Commerce shall, in conjunction with the
11 Department of Health and Human Services, the Department of Administration, the City of
12 Morganton, and the County of Burke, use the funds described in subsection (a) of this section
13 to study potential uses for vacated Broughton Hospital facilities and potential development or
14 redevelopment of adjoining State-owned properties, to ascertain the economic benefits of use,
15 development, and redevelopment. The study required by this section shall examine all of the
16 following:

- 17 (1) Potential uses of vacated Broughton Hospital facilities and development or
18 redevelopment of adjoining State-owned properties.
- 19 (2) Benefits to the State, local governments, and the private sector of each
20 potential use identified in the study.
- 21 (3) Costs to the State, to the City of Morganton, to the County of Burke, and to
22 the private sector of each potential use identified in the study.
- 23 (4) Opportunities to use the properties for public-private partnerships.
- 24 (5) Any other matters that the Department of Administration deems relevant to
25 this study of potential economic benefits in the use of vacated Broughton
26 Hospital facilities and properties.

27 **SECTION 15.20.(c)** No later than December 31, 2014, the Department of
28 Commerce shall submit an interim report on the study to the chairs of the Joint Legislative
29 Oversight Committee on Health and Human Services, to the chairs of the Joint Legislative
30 Committee on Economic Development and Global Engagement, and to the chairs of the Joint
31 Legislative Commission on Governmental Operations. No later than June 30, 2015, the



* S 7 4 4 - A M D - 5 7 - V - 4 *

9: 45
9

NORTH CAROLINA GENERAL ASSEMBLY

AMENDMENT

Senate Bill 744

AMENDMENT NO. _____

(to be filled in by

Principal Clerk)

S744-AMD-57 [v.4]

Page 2 of 2

1 Department of Administration shall submit a final report on the results of the study to the chairs
2 of the same committee."; and

3 **SECTION 15.20.(d)** The Department of Administration shall cooperate fully with
4 the performance of the study required by this section and shall provide timely information
5 about the facilities and other properties being evaluated as part of the study to the Department
6 of Commerce."; and

7
8 Moves to amend the Committee Report on page H-21, by inserting a new item to read:

9 **"87A Grant Program Reduction (\$200,000) NR**

10 Makes an reduction to the Rural Economic
11 Development Division grant programs."; and

12
13 **87B Challenge Grant for Study of Future Use of Broughton Hospital \$ 200,000 NR**

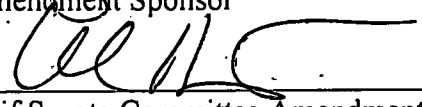
14 Provides funds for a challenge grant for a
15 study of the future use of Broughton
16 Hospital facilities."; and

17
18 Moves to adjust the appropriate totals accordingly.

SIGNED _____


Amendment Sponsor

SIGNED _____


Committee Chair if Senate Committee Amendment

ADOPTED ☒ _____

FAILED _____

TABLED _____



**NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744**

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AML-13 [v.3]

Page 1 of 2

Comm. Sub. [YES]
Amends Title [NO]
PCS

Date _____, 2014

Senator Brown

Moves to amend the bill on Page 106, Lines 17-20, by deleting those lines;

And on Page 106, after Line 20, by inserting the following:

**"EXTEND EXISTING IMAGING UTILIZATION MANAGEMENT SERVICES
CONTRACT; CONTAIN COSTS OF FUTURE CONTRACTS**

SECTION 12H.30.(a) The Department of Health and Human Services, Division of Medical Assistance, shall renegotiate the existing contract for imaging utilization management services in order to achieve five million five hundred thousand dollars (\$5,500,000) in annual savings of net General Fund appropriations.

SECTION 12H.30.(b) The Department of Health and Human Services, Division of Medical Assistance, shall issue a request for proposals (RFP) for a contract for imaging utilization management services to ascertain whether the State can achieve better savings with an alternative vendor and, if so, enter into a contract with the alternative vendor. Such an RFP shall incorporate the same requirements as those specified in Section 10.68B of S.L. 2009-451, which was enacted by Section 6 of S.L. 2009-575.

SECTION 12H.30.(c) No later than March 1, 2015, the Department of Health and Human Services, Division of Medical Assistance, shall report on the results of this section to (i) the House Appropriations Subcommittee on Health and Human Services, (ii) the Senate Appropriations Committee on Health and Human Services, and (iii) the Fiscal Research Division."

And on Page 128, Line 48, by inserting between the words "Administration" and "for" the words "or the Department of Environment and Natural Resources";

And in the Senate Appropriations/Base Budget Committee Report on the Continuation, Expansion, and Capital Budgets, dated May 29, 2014, on page H-12 by adding the following two new items:

"

50.1 Parks and Recreation Trust Fund
Reduces support to the Trust Fund by

FY 14-15
(\$70,000)R



* S 7 4 4 - A M L - 1 3 - V - 3 *

9.55
11

NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 744

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)

S744-AML-13 [v.3]

Page 2 of 2

1 \$70,000, leaving over \$12,830,000 in the
2 Fund.

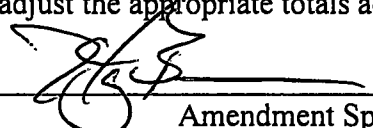
3
4 **50.2 Camp Sertoma Land Management**

\$70,000 R

5 Provides funds to support the management
6 of the Camp Sertoma Property, which is being
7 transferred from The University System to the
8 State Parks System in Section 11.7(d) of this Act.";

9
10 And moves to adjust the appropriate totals accordingly.

SIGNED _____


Amendment Sponsor

SIGNED _____


Committee Chair if Senate Committee Amendment

ADOPTED _____

✓

FAILED _____

TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Retirement Note

BILL NUMBER: Proposed Committee Substitute to Senate Bill 744 (S744-PCS35555-MDxf-29)

SHORT TITLE: Appropriations Act of 2014.

SPONSOR(S):

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Retirement System (TSERS), Consolidated Judicial Retirement System (CJRS), Legislative Retirement System (LRS), and the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF).

BILL SUMMARY:

Section 20.1: Amends G.S. 58-86-55 to allow payment of monthly benefits in the FRSWPF at age 55 with 20 years of service, despite continued paid employment as a firefighter or rescue squad worker.

Section 35.18: Grants cost-of-living adjustments (COLAs) of eight-tenths of one percent (0.8%), effective July 1, 2014, for retirees in the TSERS, CJRS, and LRS.

No other sections of the Proposed Committee Substitute modify retirement benefits or statutes.

EFFECTIVE DATE: The provision in Section 20.1 is effective October 1, 2014. The provision in Section 35.18 is effective July 1, 2014.

ESTIMATED IMPACT ON STATE:

Section 20.1

Buck Consultants, the actuary for the FRSWPF, and Hartman & Associates, the actuary for the General Assembly, estimate that the provisions of Section 20.1 will increase the normal cost and accrued liability contributions in FY 2014-15 and subsequent years as follows:

	Buck Consultants	Hartman & Associates
Normal Cost	\$ 200,000	\$ 228,000
Accrued Liability Contribution	\$ 800,000	\$ 872,000
Total Annual Cost	\$ 1,000,000	\$ 1,100,000

The contributions above are paid entirely from the General Fund.

Section 35.18

Buck Consultants, the actuary for the TSERS, CJRS, and LRS, estimates that the provisions of Section 35.18 will have an annual cost in FY 2014-15 and subsequent years as follows:

	<u>TSERS</u>	<u>CJRS</u>	<u>LRS</u>
Percent of Payroll*	0.30%	0.48%	0.52%
General Fund	\$ 29,673,000	\$ 336,000	\$ 18,824
Highway Fund	\$ 987,000	\$ 0	\$ 0
Receipt Funds	\$ 11,027,082	\$ 0	\$ 0
Total Cost	\$ 41,687,082	\$ 336,000	\$ 18,824

Hartman & Associates, the actuary for the General Assembly, estimates that the provisions of Section 35.18 will have an annual cost in FY 2014-15 and subsequent years as follows:

	<u>TSERS</u>	<u>CJRS</u>	<u>LRS</u>
Percent of Payroll*	0.29%	0.48%	0.53%
General Fund	\$ 28,683,900	\$ 336,000	\$ 19,186
Highway Fund	\$ 954,100	\$ 0	\$ 0
Receipt Funds	\$ 10,659,513	\$ 0	\$ 0
Total Cost	\$ 40,297,513	\$ 336,000	\$ 19,186

* Percent of payroll figures are rounded up to the next highest hundredth of a percent.

The figures above assume that no actuarial gains are used to cover the cost of the COLA provisions. Both the CJRS and the LRS have sufficient gains available to cover the full cost of the COLA and the Proposed Committee Substitute uses those gains in part to cover the cost of the COLA.

Appropriations

The Proposed Committee Substitute appropriates funds and sets contribution rates sufficient to cover the increased cost of Sections 20.1 and 35.18 and contribute the amount recommended by the actuary to properly fund existing benefits.

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2012 actuarial valuations. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

	<u>TSERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>FRSWPF (6/30/12)</u>
Active Members				
Count	312,512	564	169	40,870
General Fund Compensation	\$9,891M	\$70M	\$4M	
Valuation Compensation (Total)	\$13,597M	\$71M	\$4M	Not applicable

Average Age	45	55	60	40
Average Service	10.5	13.2	8.0	11.3
Inactive Members				
Count	124,976	48	81	154
Retired Members				
Count	179,908	559	283	11,912
Annual Benefits	\$3,713M	\$33M	\$2M	\$24M
Average Age	70	72	76	68
New Retirees During 2013	12,400	40	37	575

	<u>TSERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>FRSWPF</u> <u>(6/30/2012)</u>
Accrued Liability (AL)	\$63,630M	\$528M	\$24M	\$404M
Actuarial Value of Assets (AVA)	\$59,912M	\$481M	\$29M	\$339M
Market Value of Assets (MVA)	\$57,780M	\$466M	\$28M	\$322M
Unfunded Accrued Liability (AL - AVA)	\$3,718M	\$46M	(\$6M)	\$65M
Funded Status (AVA / AL)	94%	91%	123%	84%
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	8.76%	26.55%	0.00%	\$14.6M
Assumed Rate of Investment Return	7.25%	7.25%	7.25%	7.25%
Salary Increase Assumption (includes 3.50% inflation and productivity)	4.25% - 9.10%	5.00% - 5.95%	7.50%	Not applicable
Cost Method	Entry Age Normal	Projected Unit Credit	Projected Unit Credit	Entry Age Normal
Amortization	12 year, closed, flat \$	12 year, closed, flat \$	8 year, open, flat \$	12 year, closed, flat \$

	<u>TSERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>FRSWPF</u>
Formula	1.82% x Service x 4 Year Avg Pay	3.02% to 4.02% x Service x Final Pay	4.02% x Service x Highest Pay	\$170 per month
Unreduced retirement age/service	Any/30; 60/25; 65 (55 for LEO)/10 (5 if	50/24; 65/10 (5 if hired < Aug 2011)	65/5	55/20

	hired < Aug 2011)			
Employee contribution (as % of pay)	6%	6%	7%	\$10 per month

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Volunteer Fire & Rescue Finances (House Bill 1034 and Senate Bill 747)", May 21, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Buck Consultants, "Cost of Living Adjustments for State, Judicial and Legislative Retirement Systems", May 16, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1034/Senate Bill 747, Section 3: An Act to Amend the Supplemental Pensions for Firefighters and Rescue Squad Workers", May 27, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "1% COLA for Retirees in the TSERS, LGERS, CJRS, and LRS Systems", May 14, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

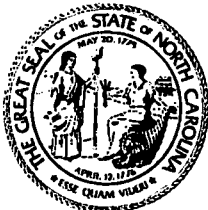
David Vanderweide

APPROVED BY:

Mark Trogon

Mark Trogon, Director
Fiscal Research Division

DATE: May 29, 2014



SENATE BILL 744: Appropriations Act of 2014 - Certain Provisions Only

2013-2014 General Assembly

Committee: Senate Pensions and Retirement
Introduced by: Sens. Brown, Harrington, Hunt
Analysis of: PCS to First Edition
S744-CSMDxf-29

Date: May 29, 2014
Prepared by: Theresa Matula
Committee Staff

SUMMARY:

Section 20.1 of the PCS for SB 744 amends the NC Firefighters' and Rescue Squad Workers' Pension Fund and Volunteer Fire Department Fund and Volunteer Rescue/EMS Fund (grant funds). Items in Section 20.1 were based on recommendations from the Joint Legislative Program Evaluation Oversight Committee.¹

Section 35.14 of the PCS for SB 744 provides a COLA for retirees of the Teachers' and State Employees' Retirement System, the Judicial Retirement System, and the Legislative Retirement System.

BILL ANALYSIS: The information below is for certain specified sections of the PCS for SB 744.

Section 20.1:

NC Firefighters' and Rescue Squad Workers' Pension Fund – This Section 20.1(a) extends supplemental pension payments to all participants aged 55 and over who have paid \$10 per month for the required 20 years (the maximum contribution time), regardless of whether they have actually retired from firefighting or rescue squad work.

Section 20.1(c) requires the Department of State Treasurer to report on March 1, 2015, and annually for two years thereafter, on the progress toward building appropriate lapse assumptions into the State's required contribution to the pension fund and collecting timely member contributions.

Tax Change

Section 20.1(b) amends G.S. 105-228.5(d)(3) to reduce from 25% to 20% the net proceeds of the tax on gross premiums on insurance contracts for property coverage that is credited to the Volunteer Fire Department Fund.

Grant Funds - The **Volunteer Fire Department Fund** provides matching grants to volunteer fire departments to purchase equipment and make capital improvements. The **Volunteer Rescue/EMS Fund** provides grants to volunteer rescue units providing rescue and emergency medical services. The Office of the State Fire Marshal and other employees of the Department of Insurance are allowed to conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either Fund (G.S. 58-87-7).

¹Local Boards and Associations Administer Firefighters' and Rescue Squad Workers' Relief Funds with Limited State Oversight; Revenue and Cost Trends Indicate Deficit in Volunteer Safety Workers' Compensation Fund in FY 2020-21; Department of State Treasurer Should Strengthen Its Oversight of the Firefighters' and Rescue Squad Workers' Pension Fund; and Improved Oversight of Volunteer Fire Department Fund and Volunteer Rescue/EMS Fund Needed; \$8 Million Surplus Found.

1. Walker Reagan
Director



Research Division
(919) 733-2578

Senate PCS 744

Page 2

Section 20.1(d) is effective January 1, 2015, and is applicable to the 2015 grant process. It requires the Commissioner of Insurance to award grants to eligible fire departments on May 15. The current law outlines limitations on the grants. G.S. 58-87-1(a1) is amended to require the applicant to match the grant dollar-for dollar unless they receive less than \$50,000 per year from other sources, in which case they must match it on a basis of \$1 to each \$3 of grant funds.

Section 20.1(e) amends G.S. 58-87-1(c) to specify content that must be contained in the Volunteer Fire Department Fund report that the Commissioner is required to submit to the General Assembly within 60 days after the grants have been made.

Section 20.1(f) amends G.S. 58-87.5 pertaining to the report by the Commissioner on the Volunteer Rescue/EMS Fund and mirrors the content required for the Volunteer Fire Department Fund (G.S. 58-87-5).

Sections 20.1(g)-(h) amends G.S. 58-87-7, effective July 1, 2015, pertaining to the oversight and accountability of grant awards. The amendment specifies that if equipment purchased with grant funds is disposed of within five years of the date of the grant award funding its purchase, then the grant recipient must reimburse the appropriate fund the amount of matching funds used for the purchase, less depreciation. With regard to the transfer of purchased equipment, if a grant recipient ceases to exist within five years of the date of the award, all equipment purchased with the grant must be transferred to the department that assumes responsibility for providing service to the grant recipient's service area, or to another appropriate department. This Department of Insurance is required to take action to facilitate the implementation and enforcement of the amendments by adopting rules establishing guidelines.

Section 20.1(i) requires the Department to report no later than January 1, 2015, to the Joint Program Evaluation Oversight Committee on the Department's efforts to update and correct its computer code that assigns points to grant applicants for funds awarded.

Section 35.14:

Cost of Living Increase for Certain Retirees - Section 35.14 provides a 0.8% cost-of-living increase for retirees of the Teachers' and State Employees' Retirement System (G.S. 135-5(ttt)), the Judicial Retirement System (G.S. 135-65(ee)) and the Legislative Retirement System (G.S. 120-4.22A(y)).

VISITOR REGISTRATION SHEET

SENATE PENSIONS

(Committee Name)

5-29-2014

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Dion Terry	Governor
Sam Watts	NC Dept of State Treasurer
Bell Miller	US Treas.
Sohari	DST.
Hamilton	DST
Sarah W. Wolfe	MWC
Nathan Bratts	NCBA
Willon Jones	Jordan Price
Adam Pridemore	NCAAA
Emily Daille	NCPAPA
Allison Waller	Nelson Mullins
Amey Jones	NC DOC
W. H. H. H. H.	NCICG
Lori Ann Harris	LATA
PRIGE WATSON	NC Center for Public Policy Research

VISITOR REGISTRATION SHEET

SENATE PENSIONS

(Committee Name)

5-29-2014

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Tonya Horton	Tramm Sanders
Alex Hill	KLG
Cathy Thomas	NCAR
Cory Hand	NCHA
Sam Skinner	NCAA
Ed Rega	NCRGEA
Steve Mangle	NCRLA
Writney Christensen	NCLM
Jackson Cozart	NSS
John Lewis	NCSA
Mark Lamey	UNCW
John Hensley	MFBS
Conner Sexton	NCGA

Senate Committee on Pensions & Retirement and Aging
Wednesday, June 25, 2014, 10:30 AM
1027/1128 Legislative Building

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
SB 878	Retirement Investment Accountability.	Senator Hise
HB 1034	Volunteer Fire and Rescue Finances (PED).	Representative Howard Representative Moffitt Representative Lucas

Presentations

Other Business

Adjournment

Senate Committee on Pensions & Retirement and Aging
Wednesday, June 25 at 10:30 AM
Room 1027/1128

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 10:33am on 6/25/2014 in Room 1027/1128. 8 members were present.

Pages attending:

Ben Britt of Winston-Salem (Sen. Krawiec); Walter Jackson of Laurinburg (Sen. McLaurin); Martha McSwain of Norwood (Sen. Walters); Anna Martina of Harrisburg (Sen. Hartsell); Zack Maher of Waxhaw (Sen. Tucker); Megan Matula of Rolesville (Sen. J. Davis); Julie Satsky of Raleigh (Sen. Stein).

Senator Ralph Hise presided.

The Agenda originally has S878, H1034, H1193, H1194, and 1195. Not all the bills were discussed.

H1034 Volunteer Fire and Rescue Finances (PED) Sponsored by Rep. Howard, Rep. Moffitt, and Rep. Lucas.

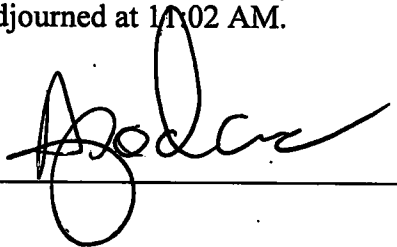
Rep. Howard presented the PCS after Sen. Gunn made the motion to accept the PCS, along with its accompanying Retirement Note. Few questions came from members. No public discussion was offered. Sen. Curtis moved for Unfavorable as to CS#1, Favorable as to CS#2, which was presented by Rep. Howard. Motion carried.

S878 Retirement Investment Accountability Sponsored by Sen. Hise

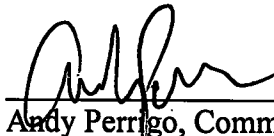
Sen. Curtis moved that the committee consider the PCS. Motioned carried. After Sen. Hise presented the bill, the Chair opened the floor to the public. Ms. Ardis Watkins of SEANC (State Employee Association of NC) spoke for several minutes against the bill/PCS. The Chair then opened discussion for the members. During that discussion, the Chair recognized Mr. Anthony Solari from the NC Treasurer's office. Mr. Solari spoke in favor of the bill/PCS. After several minutes, the Chair decided to cut off debate and hold the bill over until the next meeting. No other bills were discussed.

The meeting adjourned at 11:02 AM.

Sen. Apodaca
Presiding



Andy Perrigo, Committee Clerk



**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Wednesday, June 25, 2014

Senator Apodaca,

submits the following with recommendations as to passage:

**UNFAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 1, BUT
FAVORABLE AS TO SENATE COMMITTEE SUBSTITUTE BILL NO. 2**

HB 1034 (SCS#1)

Volunteer Fire and Rescue Finances (PED).

Draft Number: H1034-PCS30793-ME-23

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 1

Senator Fletcher Hartsell will handle HB 1034



* C M R 1 1 0 9 - V - 2 *

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

D

HOUSE BILL 1034*
Committee Substitute Favorable 5/21/14
Committee Substitute #2 Favorable 5/28/14
Senate Finance Committee Substitute Adopted 6/19/14
PROPOSED SENATE COMMITTEE SUBSTITUTE H1034-PCS30793-ME-23

Short Title: Volunteer Fire and Rescue Finances (PED).

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED
AN ACT TO AMEND THE LAWS RELATED TO (1) LOCAL FIREFIGHTERS' RELIEF FUNDS, THE STATEWIDE FIREFIGHTERS' RELIEF FUND, AND THE RESCUE SQUAD WORKERS' RELIEF FUND, (2) WORKERS' COMPENSATION FOR FIREFIGHTERS AND RESCUE SQUAD WORKERS, (3) SUPPLEMENTAL PENSIONS FOR FIREFIGHTERS AND RESCUE SQUAD WORKERS, AND (4) THE VOLUNTEER FIRE DEPARTMENT FUND AND VOLUNTEER RESCUE/EMS FUND, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. Relief Funds. – (a) Article 84 of Chapter 58 of the General Statutes reads as rewritten:

"Article 84.

~~"Fund Derived from Insurance Companies.~~ Local Firefighters' Relief Funds.

"§ 58-84-1. Repealed by Session Laws 2006-196, s. 6, effective January 1, 2008, and applicable to proceeds credited to the Department of Insurance on or after that date.

"§ 58-84-5. Definitions.

The following definitions apply in Articles 84 through 88 of this Chapter:

- (1) City. – A fire district.
- (2) Clerk. – The clerk of a fire district or, if there is no clerk, the person so designated by the governing body of the fire district.
- (3) Fire district. – Any political subdivision of the State that meets all of the following conditions:
 - a. It has an organized fire department under the control of its governing body.
 - b. Its fire department has apparatus and equipment that is in serviceable condition for fire duty and is valued at one thousand dollars (\$1,000) or more.
 - c. ~~It enforces the fire laws to the satisfaction of the~~ is rated and certified by the Commissioner.
 - d. Its response area has been approved by the local municipal government or, if there is no local municipal government, by the local board of county commissioners.



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(4) Town. – A fire district.

"§§ 58-84-10 through 58-84-20: Repealed by Session Laws 1995 (Regular Session, 1996), c. 747, s. 6.

"§ 58-84-25. Disbursement of funds by Insurance Commissioner.

(a) Distribution. – The Insurance Commissioner shall deduct the sum of three percent (3%) from the tax proceeds credited to the Department pursuant to G.S. 105-228.5(d)(3) and pay the same over to the treasurer of the State Firemen's Association for general-administrative purposes. The Insurance Commissioner shall deduct the sum of ~~one percent (1%)~~ two percent (2%) from the tax proceeds and retain the same in the budget of the Department of Insurance for the purpose of administering the disbursement of funds by the board of trustees in accordance with the provisions of G.S. 58-84-35. The Insurance Commissioner shall, pursuant to G.S. 58-84-50, credit the amount forfeited by nonmember fire districts to the North Carolina State Firemen's Association. The Insurance Commissioner shall distribute the remaining tax proceeds to the treasurer of each fire district as provided in subsections (b) and (c) of this section.

(b) Allocation to Counties. – The Insurance Commissioner shall allocate to each county an amount of tax proceeds based upon the amount allocated to it in the previous year. If the amount allocable in the current year is less than the amount allocated in the previous year, then the Commissioner shall reduce the amount allocated to each county. The amount of the reduction is equal to the difference in the amount allocated in the previous year and the amount allocable in the current year multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State. If the amount allocable in the current year is greater than the amount allocated in the previous year, then the Commissioner shall increase the amount allocated to each county. The amount of the increase is equal to the excess proceeds multiplied by a fraction, the numerator of which is the population of the county and the denominator of which is the population of the State.

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations to the fire districts in that county. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by ~~January 1~~ February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(d) Administration. – These funds shall be held by the treasurer of a fire district as a separate and distinct fund. The fire district shall immediately pay the funds to the treasurer of the local board of trustees upon the treasurer's election and qualification, for the use of the board of trustees of the firemen's local relief fund in each fire district, ~~which board shall be composed of five members, district~~ to be used by it for the purposes provided in G.S. 58-84-35.

"§ 58-84-30. Trustees appointed; organization.

For each county, town or city complying with and deriving benefits from the provisions of this Article, there shall be appointed a local board of trustees, known as the trustees of the local Firefighters' Relief Fund, to be composed of five members, two of whom shall be elected by the members of the local fire department who are qualified as beneficiaries of such fund, two of whom shall be elected by the mayor and board of aldermen or other local governing body, and one of whom shall be named by the Commissioner of Insurance. Their selection and term of office shall be as follows:

- (1) The members of the fire department shall hold an election each January to elect their representatives to above board. In January 1950, the firefighters shall elect one member to serve for two years and one member to serve for one year, then each year in January thereafter, they shall elect only one member and his term of office shall be for two years. Members elected pursuant to this section shall be either (i) residents of the fire district or (ii) active or retired members of the fire department.
- (2) The mayor and board of aldermen or other local governing body shall appoint, in January 1950, two representatives to above board, one to hold office for two years and one to hold office for one year, and each year in January thereafter they shall appoint only one representative and his term of office shall be for two years. Members appointed pursuant to this section shall be residents of the fire district.
- (3) The Commissioner of Insurance shall appoint one representative to serve as trustee and he shall serve at the pleasure of the Commissioner. The member appointed pursuant to this section shall be either (i) a resident of the fire district or (ii) an active or retired member of the fire department.

All of the above trustees shall hold office for their elected or appointed time, or until their successors are elected or appointed, and shall serve without pay for their services. They shall immediately after election and appointment organize by electing from their members a chairman and a secretary and treasurer, which two last positions may be held by the same person. The treasurer of said board of trustees shall give a good and sufficient surety bond in a sum equal to the amount of moneys in his hand, to be approved by the Commissioner of Insurance. The cost of this bond may be deducted by the Insurance Commissioner from the receipts collected pursuant to G.S. 58-84-10 before distribution is made to local relief funds. If the chief or chiefs of the local fire departments are not named on the board of trustees as above provided, then they shall serve as ex officio members without privilege of voting on matters before the board.

"§ 58-84-32. Prudent management of funds.

Local boards of trustees shall manage local relief funds as prudent trustees of the funds, subject to Chapter 36E of the General Statutes.

"§ 58-84-35. Disbursement of funds by trustees.

(a) The board of trustees shall have entire control of the funds derived from the provisions of this Article, and shall disburse the funds only for the following purposes:

- (1) To safeguard any ~~fireman~~-~~firefighter~~ in active service from financial loss, occasioned by sickness contracted or injury received while in the performance of his duties as a ~~fireman~~-~~firefighter~~.
- (2) To provide a reasonable support for those actually dependent upon the services of any ~~fireman~~-~~firefighter~~ who may lose his life in the fire service of his town, city, or State, either by accident or from disease contracted or injury received by reason of such service. The amount is to be determined according to the earning capacity of the deceased.
- (2a) To provide assistance, upon approval by the ~~Secretary~~-Executive Director of the State Firemen's Association, to a destitute member ~~fireman~~-~~firefighter~~ who has served honorably for at least five years. The determination of destitute shall be based on the inability of the firefighters, through no fault of their own, to provide basic provisions to themselves or their families. Such basic provisions include, but are not limited to, assistance with housing, vehicle or commuting expenses, food, clothing, utilities, medical care, and funeral expenses.
- (3) Repealed by Session Laws 1985, c. 666, s. 61.

- (4) To provide for the payment of any ~~fireman's~~ firefighter's assessment in the Firemen's Fraternal Insurance Fund of the State of North Carolina if the board of trustees finds as a fact that said ~~fireman~~ firefighter is unable to pay the said assessment by reason of disability.
- (5) To provide for benefits of (i) supplemental retirement, including payment of firefighters' monthly assessments for the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund, (ii) workers compensation, including the payment of premiums to the Workers' Compensation Fund established under G.S. 58-87-10, and (iii) other insurance and pension protection for firefighters otherwise qualifying for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.
- (6) To provide for educational benefits to ~~firemen~~ firefighters and their dependents who otherwise qualify for benefits from the Firefighters' Relief Fund as set forth in Article 85 of this Chapter.
- (7) To provide for annual physicals that are required for firefighter positions by the Department of Labor or are recommended by the National Fire Protection Association.

(b) Notwithstanding any other provisions of law, no expenditures shall be made pursuant to ~~subsections (5) and (6)~~ subdivision (5), (6), or (7) of subsection (a) of this section unless the State Firemen's Association has certified that such expenditures will not render the Fund ~~actuarially~~ financially unsound for the purposes of providing the benefits set forth in ~~subsections~~ subdivisions (1), (2), and (4) of subsection (a) of this section. If, for any reason, funds made available for ~~subsections (5) and (6) of this section~~ subdivision (5), (6), or (7) shall be insufficient to pay in full any benefits, the benefits pursuant to ~~subsections~~ subdivisions (5) and (6) shall be reduced pro rata for as long as the amount of insufficient funds ~~exists~~ exists, after first eliminating the benefits pursuant to subdivision (7). No claim shall accrue with respect to any amount by which a benefit under ~~subsections~~ subdivisions (5) and (6) shall have been reduced.

(c) As used in subsection (b) of this section, the term "financially unsound" means that a local fund could not sustain a requested expenditure or could not make similar payments for five years without the local fund's balance falling below the greater of the following:

- (1) Five hundred dollars (\$500.00) multiplied by the number of eligible firefighters in the local department.
- (2) Twenty thousand dollars (\$20,000).

(d) A local board of trustees shall not be restricted to making disbursements solely from the interest earned on the local board's relief fund.

"§ 58-84-40. Trustees to keep account and file certified reports.

(a) Each local board of trustees shall keep a correct account of all moneys received and disbursed by them. On a form prescribed by the North Carolina State Firemen's Association, each local board shall certify by October 31 of each year the following to the Association: the balance of the local fund, proof of sufficient bonding, a full and detailed accounting of the previous year's expenditures, and a full accounting of membership qualifications. Such certification shall be made concurrently with the local unit's statement of Fire Readiness. The accounting of the previous year's expenditures shall include the amounts spent on each of the purposes listed in G.S. 58-84-35(a), including the number of firefighters that received benefits for each of the purposes.

(b) In turn, the State Firemen's Association shall certify to the Department of Insurance by January 1 of each year on a form prescribed by the Department, the following:

- (1) The local units ~~which~~ that have complied with the requirements of subsection (a) of this section.
- (2) A listing of the members of each of the local units.

(3) The fund balances for each of the local units' relief funds.

(4) Any departments that have exceeded the maximum balance provided under G.S. 58-84-33(a).

(5) Details on the disbursements from local relief funds, including how much was disbursed for each allowable purpose and how many members received disbursements for those purposes, on both a unit-by-unit basis and total basis.

(6) Information on any improper disbursements.

(c) In the event that any board of trustees in any of the towns and cities benefited by this Article shall neglect or fail to perform their duties, or shall willfully misappropriate the funds entrusted in their care by obligating or disbursing such funds for any purpose other than those set forth in G.S. 58-84-35, then the Insurance Commissioner shall withhold any and all further payments to such board of trustees, or their successors, until the matter has been fully investigated by an official of the State Firemen's Association, and adjusted to the satisfaction of the Insurance Commissioner.

(d) In the event that any local relief fund provided for in this Article becomes impaired, then the Statewide Firefighters' Relief Fund may in the discretion of its board of trustees assist the local unit administering the fund in providing for relief to injured firefighters and their dependents or survivors; provided, however, that any funds so provided to such impaired units shall be repaid in full at the statutory rate of interest from future local unit receipts if the impairment resulted from violations of this Article.

"§ 58-84-41. Commissioner of Insurance to maintain database of reports; fire department identification numbers.

(a) Working with the North Carolina State Firemen's Association, the Commissioner of Insurance shall develop and maintain a database of the information reported under G.S. 58-84-40(b).

(b) The Commissioner of Insurance shall issue to each fire department within the State a unique fire department identification number (FDID) that shall be used by the Commissioner and the North Carolina State Firemen's Association to coordinate database records and reports.

"§ 58-84-45. Repealed by Session Laws 2000-67, s. 26.21(a).

"§ 58-84-46. Certification to Commissioner.

On or before October 31 of each year the clerk or finance officer of each city or county that has a local board of trustees under ~~G.S. 58-84-30~~ G.S. 58-84-30, or a fire chief if authorized by such a city or county to file the certificate, shall file a certificate of eligibility with the Commissioner. The certificate shall contain information prescribed by administrative rule adopted by the Commissioner. If the certificate is not filed with the Commissioner on or before January 31 in the ensuing year:

(1) The city or county that failed to file the certificate shall forfeit the payment next due to be paid to its board of trustees.

(2) The Commissioner shall pay over that amount to the treasurer of the North Carolina State Firemen's Association.

(3) That amount shall constitute a part of the Statewide Firefighters' Relief Fund.

"§ 58-84-50. Fire departments to be members of State Firemen's Association.

For the purpose of supervision and as a guaranty that provisions of this Article shall be honestly administered in a businesslike manner, it is provided that every department enjoying the benefits of this law shall be a member of the North Carolina State Firemen's Association and comply with its constitution and bylaws. If the fire department of any city, town or village shall fail to comply with the constitution and bylaws of said Association, said city, town or village shall forfeit its right to the next annual payment due from the funds mentioned in this Article, and the Commissioner of Insurance shall pay over said amount to the treasurer of the

North Carolina State Firemen's Association and same shall constitute a part of the Statewide Firefighters' Relief Fund.

"§ 58-84-52. Benefits available to individual firefighters whose departments are not members of the State Firemen's Association.

(a) Individual firefighters whose departments are not members of the North Carolina State Firemen's Association shall be covered under the line of duty coverage offered by the Association.

(b) Benefits under this section shall be paid from the funds that are forfeited from local departments to the Statewide Firefighters' Relief Fund.

"§ 58-84-55. No discrimination on account of race.

The local boards of trustees of the local Firefighters' Relief Fund shall make no discrimination based upon race in the payment of benefits.

"§ 58-84-60. Immunity.

A person serving on a local board of trustees of thea local Firefighters' Relief Fund shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of this service, except where the person:

- (1) Was not acting within the scope of that person's official duties;
- (2) Was not acting in good faith;
- (3) Committed gross negligence or willful or wanton misconduct that resulted in the damages or injury;
- (4) Derived an improper personal financial benefit, either directly or indirectly, from the transaction; or
- (5) Incurred the liability from the operation of a motor vehicle.

"§ 58-84-65. Repeal of certain local laws inconsistent with this Article.

The following provisions contained within any local act enacted or amended prior to January 1, 2014, are hereby repealed:

- (1) Any redirection, at the time of receipt, of funds directed to a fire district under G.S. 58-84-25(c) to a fund other than a local relief fund.
- (2) Any restriction that would be inconsistent with G.S. 58-84-35(d).
- (3) Any transfer of interest earned on a local relief fund from the local relief fund to another fund.
- (4) Any transfer of funds from a local relief fund to a supplemental retirement fund based on the local relief fund exceeding a certain amount.
- (5) Any allowable expenditures that are not within the scope of the list provided in G.S. 58-84-35(a).
- (6) Any variation from the certification requirement under G.S. 58-84-35(b)."

SECTION 1.(b) The database required by G.S. 58-84-41, as enacted by subsection (a) of this section, shall be operational no later than December 1, 2015, so the Department of Insurance can receive and include in its database the information from the North Carolina State Firemen's Association that is due by January 1, 2016.

SECTION 1.(c) Effective July 1, 2015, G.S. 58-84-25, as amended by subsection (a) of this section, reads as rewritten:

"§ 58-84-25. Disbursement of funds by Insurance Commissioner.

...

(c) Distribution to Fire Districts. – Once the Insurance Commissioner has allocated the tax proceeds to a county under subsection (b) of this section, the Commissioner shall distribute those allocations directly to the fire districts in that county. The Commissioner shall distribute the allocations by electronic funds transfer, unless a fire district's account cannot accept electronic funds transfers, in which case the Commissioner shall distribute the district's allocation by paper check. The amount distributed to each fire district is equal to the total amount allocated to the county multiplied by a fraction, the numerator of which is the tax value

of the property located in the fire district and the denominator of which is the tax value of all property located in any fire district in that county. A county shall provide the Commissioner with the tax value of property located in each fire district in that county by February 1 of each year. If a county does not submit information that the Commissioner needs to make a distribution by the date the information is due, the Commissioner shall distribute the allocation based on the most recent information the Commissioner has.

(c1) Certain Amounts Redistributed. – Notwithstanding subsection (c) of this section, the Insurance Commissioner shall not distribute funds to a fire district whose local relief fund's balance exceeds the amount provided under G.S. 58-84-33(a). Instead, the Commissioner shall, using the methodology provided in subsections (b) and (c) of this section, distribute those funds to the fire districts whose local relief funds' balances do not exceed the amount provided under G.S. 58-84-33(a). If all of a county's fire districts' local relief funds' balances exceed the amount provided under G.S. 58-84-33(a), then the Commissioner shall reallocate the amount the county would have received to the counties with fire districts that do not exceed the amount provided under G.S. 58-84-33(a)."

SECTION 1.(d) Effective July 1, 2015, Article 84 of Chapter 58 of the General Statutes, as amended by subsection (a) of this section, is further amended by adding a new section to read as follows:

"§ 58-84-33. Maximum fund balances.

(a) The balance of a local fire department's Firefighter's Relief Fund for a given year shall not exceed the product of multiplying the number of members on the department's roster as of January 1 for that year by the sum of two thousand five hundred dollars (\$2,500).

(b) The North Carolina State Firemen's Association shall annually calculate and notify each local department of its relief fund's maximum allowable balance.

(c) A local fire department whose relief fund balance, at the time of annual distribution by the Insurance Commissioner, exceeds the amount allowable under subsection (a) of this section shall not be entitled to receive a distribution for that year, and the Commissioner shall redistribute the funds that the department would have received, as provided under G.S. 58-84-25(c1).

(d) A board of trustees of a local Firefighters' Relief Fund may, with the authorization of and under guidelines provided by the North Carolina State Firemen's Association, dedicate a portion of the local Firefighters' Relief Fund towards providing supplemental retirement. Notwithstanding subsection (a) of this section, if such dedicated amounts are used solely for supplemental retirement within the guidelines provided by the North Carolina State Firemen's Association, then such dedicated amounts shall not count towards the maximum allowable balance under subsection (a) of this section."

SECTION 1.(e) Article 85 of Chapter 58 of the General Statutes reads as rewritten:

"Article 85.

~~"State Appropriation.~~ Statewide Firefighters' Relief Fund.

"§ 58-85-1. Application of fund.

The money paid into the hands of the treasurer of the North Carolina State Firemen's Association shall be known and remain as the "Firefighters' Relief Fund" of North Carolina, and shall be used as a fund for the relief of firefighters and county fire marshals, who are members of this Association, who may be injured or rendered sick by disease contracted in the actual discharge of duty as firefighters or county fire marshals, and for the relief of surviving spouses, children, and if there be no surviving spouse or children, then dependent mothers of the firefighters and county fire marshals killed or dying from disease so contracted in the discharge of duty; to be paid in the manner and in the sums to the individuals of the classes herein named and described as may be provided for and determined upon in accordance with the constitution and bylaws of the Association, and any provisions and determinations made under the constitution and bylaws shall be final and conclusive as to the persons entitled to

benefits and as to the amount of benefit to be received, and no action at law shall be maintained against the Association to enforce any claim or recover any benefit under this Article or under the constitution and bylaws of the Association; but if any officer or committee of the Association omit or refuse to perform any duty imposed upon the officer or them, nothing herein contained shall be construed to prevent any proceedings against that officer or committee to compel the officer or them to perform that duty. ~~No firefighter or county fire marshal shall be entitled to receive any benefits under this section until the firefighters' relief fund of his city or town has been exhausted.~~ Notwithstanding the above provisions, the Executive Board of the North Carolina State Firemen's Association is hereby authorized to grant educational scholarships to members and the children of members, to subsidize premium payments of members over 65 years of age to the Firemen's Fraternal Insurance Fund of the North Carolina State Firemen's Association, and to provide accidental death and dismemberment insurance for members of ~~those fire departments not eligible for benefits pursuant to standards of certification adopted by the State Firemen's Association for the use of local relief funds.~~ departments.

"§ 58-85-5. Reserved for future codification purposes.

"§ 58-85-10. Treasurer to file report and give bond.

[] The treasurer of the North Carolina State Firemen's Association shall make a detailed report to the State Treasurer and the Commissioner of Insurance of the yearly expenditures of the appropriation under Articles 84 through 88 of this Chapter on or before the end of the fiscal year, showing the total amount of money in his hands at the time of the filing of the report, and shall give a bond to the State of North Carolina with good and sufficient sureties to the satisfaction of the Treasurer of the State of North Carolina in a sum not less than the amount of money on hand as shown by said report.

"§ 58-85-15. Who shall participate in the fund.

The line of duty entitling one to participate in the fund shall be so construed as to mean actual fire duty only, and any actual duty connected with the fire department or county fire marshal office when directed to perform the same by an officer in charge.

"§ 58-85-20. Who may become members.

Any organized fire company in North Carolina, holding itself ready for duty, may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina State Firemen's Association, and any ~~fireman~~ firefighter of good moral character in North Carolina, and belonging to an organized fire company, who complies with the requirements of the constitution and bylaws of the North Carolina State Firemen's Association, may become a member of the Association. Any county fire marshal office may, upon compliance with the requirements of its constitution and bylaws, become a member of the North Carolina Firemen's Association, and any employee of a county fire marshal office of good moral character whose sole duty is to act as a fire marshal, deputy fire marshal, assistant fire marshal, or firefighter of the county, who complies with the requirements of its constitution and bylaws, may become a member of the North Carolina Firemen's Association.

"§ 58-85-25. Applied to members of regular fire company.

G.S. 58-85-1, 58-85-10, 58-85-15, 58-85-20, and 58-85-25 shall apply to any ~~fireman~~ firefighter or fire marshal who is a member of a regularly organized fire company or county fire marshal office, and is a member in good standing of the North Carolina State Firemen's Association.

"§ 58-85-30. Treasurer to pay fund to Volunteer Firemen's Association.

(a) The treasurer of the North Carolina State Firemen's Association shall pay to the treasurer of the North Carolina State Volunteer Firemen's Association one sixth of the funds arising from the three percent (3%) paid the treasurer of the North Carolina State Firemen's Association by the Commissioner each year to be used by the North Carolina State Volunteer Firemen's Association for the purposes set forth in G.S. 58-84-35.

(b) Local units of the North Carolina State Volunteer Firemen's Association shall maintain records and report to the North Carolina State Firemen's Association in accordance with G.S. 58-84-40, and shall be subject to the sanctions in G.S. 58-84-40.

"§ 58-85-35. Prudent management of Firefighters' Relief Fund.

The North Carolina State Firemen's Association shall manage the Firefighters' Relief Fund as a prudent trustee of the funds, subject to Chapter 36E of the General Statutes."

SECTION 1.(f) G.S. 58-88-5(c)(5) reads as rewritten:

"(5) Notwithstanding any other provision of law, no expenditures shall be made pursuant to subdivisions (1), (2), (3), (4), and (4a) of this subsection unless the Board has certified that the expenditures will not render the Fund ~~actuarially~~ financially unsound for the purpose of providing the benefits set forth in subdivisions (1), (2), (3), (4), and (4a). If, for any reason, funds made available for subdivisions (1), (2), (3), (4), and (4a) are insufficient to pay in full any benefit, the benefits pursuant to subdivisions (1), (2), (3), (4), and (4a) shall be reduced pro rata for as long as the amount of insufficient funds exists. No claims shall accrue with respect to any amount by which a benefit under subdivisions (1), (2), (3), (4), and (4a) has been reduced."

SECTION 1.(g) Article 88 of Chapter 58 of the General Statutes is amended by adding a new section to read as follows:

"§ 58-88-35. Prudent management of Rescue Squad Workers' Relief Fund.

The Association shall manage the Rescue Squad Workers' Relief Fund as a prudent trustee of the funds, subject to Chapter 36E of the General Statutes."

SECTION 1.(h) Beginning on April 1, 2016, and each year thereafter, the Department of Insurance shall report to the House Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology the following information about each local firefighters' relief fund board, the North Carolina State Firemen's Association, and the North Carolina Association of Rescue and Emergency Medical Services, Inc.:

- (1) The total amount of money disbursed from the relief funds controlled by each of the entities.
- (2) The amount of money spent by each entity for each of the statutorily permissible uses.
- (3) Each entity's ending fund balance.

The report also should describe any problems with data collection and quality and, if applicable, make recommendations on actions the General Assembly could take to resolve any data issues.

SECTION 1.(i) Chapter 183 of the 1979 Session Laws is repealed. Any funds remaining in the Mebane Firemen's Supplemental Retirement Fund at the time of this repeal shall be transferred to the Mebane Local Firefighters' Relief Fund.

SECTION 2. Workers' Compensation. – (a) G.S. 58-87-10 reads as rewritten:
"§ 58-87-10. Workers' Compensation Fund for the benefit of ~~volunteer~~ certain safety workers.

(a) ~~Definition.~~ Definitions. – As used in this section, the ~~term~~ following terms apply:

(1) Eligible entity. – One of the following entities that support eligible units and members of eligible units:

- a. North Carolina State Firemen's Association.
- b. The North Carolina Association of Fire Chiefs, Incorporated.
- c. North Carolina Association of Rescue and Emergency Medical Services, Inc.

(2) ~~"eligible unit" means a volunteer~~ Eligible unit. – A fire department or volunteer-rescue/EMS unit that (i) is not part of a unit of local government and (ii) is exempt from State income tax under G.S. 105-130.11.

(b) Creation. – The Workers' Compensation Fund is created in the Department of Insurance as an expendable trust fund. Accordingly, interest and other investment income earned by the Fund accrues to it, and revenue in the Fund at the end of a fiscal year remains in the Fund and does not revert.

(c) Use. – Revenue in the Workers' Compensation Fund shall be used to provide workers' compensation benefits to (i) members of eligible units ~~units~~ and (ii) the employees and volunteers of eligible entities. Chapter 97 of the General Statutes governs the payment of benefits from the Fund. Benefits are payable for compensable injuries or deaths that occur on or after July 1, 1996.

(d) Administration. – The State Fire and Rescue Commission, established under G.S. 58-78-1, shall administer the Workers' Compensation Fund and shall perform this duty by contracting with a third-party administrator. The contracting procedure is not subject to Article 3C of Chapter 143 of the General Statutes. The reasonable and necessary expenses incurred by the Commission in administering the Fund shall be paid out of the Fund by the State Treasurer. The Commission may adopt rules to implement this section.

(e) Revenue Source. – Revenue is credited to the Workers' Compensation Fund from a portion of the proceeds of the tax levied under G.S. 105-228.5(d)(3). In addition, every eligible unit and eligible entity that elects to participate shall pay into the Fund an amount set annually by the State Fire and Rescue Commission to ensure that the Fund will be able to meet its payment obligations under this section. The amount shall be set as ~~a per capita fixed dollar~~ an amount for each member of the roster of the eligible unit ~~unit~~ or for each employee or volunteer of an eligible entity, and the amount may vary based on whether an individual is a volunteer, a part-time employee, or a full-time employee. The payment shall be made to the State Fire and Rescue Commission on or before July 1 of each year. The Commission shall remit the payments it receives to the State Treasurer, who shall credit the payments to the Fund.

(f) The amount of the tax imposed by G.S. 105-228.5(d)(3) credited to the Workers' Compensation Fund shall be the maximum allowed under that statute."

SECTION 2.(b) Effective April 1, 2016, G.S. 58-87-10(f), as amended by Section 20.2(e) of S.L. 2013-360, reads as rewritten:

"(f) Funding Study. – The Department of Insurance shall annually conduct ~~a periodic~~ an actuarial study ~~to that shall~~ do all of the following:

(1) ~~calculate~~ Calculate the amount required to meet the needs of the Fund. ~~Fund, projecting at least five years into the future. The study shall be based on a revenue amount that is the greater of the amount paid by members of the Fund as determined under subsection (e) of this section for the fiscal year to which the study applies or the amount paid by members of the Fund as determined under subsection (e) of this section for fiscal year 2012-2013.~~

(2) Report on the nature of the claims paid by the Fund and any claims-related trends that impact the financial status of the Fund.

(3) Calculate how much revenue from the State and from member premiums would be required to meet the needs of the Fund for each of the following scenarios:

a. The Fund receives twenty percent (20%) of the net proceeds from the tax collected under G.S. 105-228.5(d)(3).

b. Member premiums do not change from the prior year.

c. Member premiums fully fund the Fund without any State support.

(4) Be published no later than February 1 of each year. Upon publishing the study, the Department shall notify the following of its publication:

- a. The Office of State Budget and Management.
- b. The House Appropriations Committee.
- c. The Senate Appropriations/Base Budget Committee.
- d. The Fiscal Research Division.

Additionally, beginning in 2016 and every five years thereafter, the study shall include (i) a comparison of Fund premium levels to the premium levels of employees of municipal fire and rescue departments and (ii) a calculation of the amount of revenue generated by experience-rating premium surcharges and, if necessary, recommend changes to experience-rating premium surcharges given claim trends. The Department may contract with a third party to conduct the study required under this section, and the cost of the study may be paid from the Fund. However, if the Department contracts with the same actuary that the Volunteer Safety Workers' Compensation Board contracts with to perform the study under this section, then the Department shall not pay the actuary for data collection and analysis that the actuary has already performed as part of its loss reserve analysis for the Board.

(g) Allocation of Taxes. – The study conducted under subsection (f) of this section shall be reviewed by the Office of State Budget and Management. On or before March 1 of each year, the Office of State Budget and Management, in consultation with the Department of Insurance, must notify the Secretary of Revenue of the amount required to meet the needs of the Fund, as determined by the study, for the upcoming fiscal year. The Secretary of Revenue shall remit that amount, subject to the twenty percent (20%) limitation in G.S. 105-228.5(d)(3), to the Fund."

SECTION 2.(c) G.S. 97-2(5) reads as rewritten:

"(5) Average Weekly Wages. – "Average weekly wages" shall mean the earnings of the injured employee in the employment in which the employee was working at the time of the injury during the period of 52 weeks immediately preceding the date of the injury, including the subsistence allowance paid to veteran trainees by the United States government, provided the amount of said allowance shall be reported monthly by said trainee to the trainee's employer, divided by 52; but if the injured employee lost more than seven consecutive calendar days at one or more times during such period, although not in the same week, then the earnings for the remainder of such 52 weeks shall be divided by the number of weeks remaining after the time so lost has been deducted. Where the employment prior to the injury extended over a period of fewer than 52 weeks, the method of dividing the earnings during that period by the number of weeks and parts thereof during which the employee earned wages shall be followed; provided, results fair and just to both parties will be thereby obtained. Where, by reason of a shortness of time during which the employee has been in the employment of his employer or the casual nature or terms of his employment, it is impractical to compute the average weekly wages as above defined, regard shall be had to the average weekly amount which during the 52 weeks previous to the injury was being earned by a person of the same grade and character employed in the same class of employment in the same locality or community.

But where for exceptional reasons the foregoing would be unfair, either to the employer or employee, such other method of computing average weekly wages may be resorted to as will most nearly approximate the amount which the injured employee would be earning were it not for the injury.

Wherever allowances of any character made to an employee in lieu of wages are specified part of the wage contract, they shall be deemed a part of his earnings.

1 Where a minor employee, under the age of 18 years, sustains a
2 permanent disability or dies leaving dependents surviving, the compensation
3 payable for permanent disability or death shall be calculated, first, upon the
4 average weekly wage paid to adult employees employed by the same
5 employer at the time of the accident in a similar or like class of work which
6 the injured minor employee would probably have been promoted to if not
7 injured, or, second, upon a wage sufficient to yield the maximum weekly
8 compensation benefit. Compensation for temporary total disability or for the
9 death of a minor without dependents shall be computed upon the average
10 weekly wage at the time of the accident, unless the total disability extends
11 more than 52 weeks, and then the compensation may be increased in
12 proportion to the employee's expected earnings.

13 In case of disabling injury or death to a volunteer ~~fireman~~; ~~firefighter~~;
14 volunteer member of an organized rescue squad; an authorized pickup
15 firefighter, as defined in subdivision (2) of this section, when that individual
16 is engaged in emergency fire suppression activities for the North Carolina
17 Forest Service; a duly appointed and sworn member of an auxiliary police
18 department organized pursuant to G.S. 160A-282; or senior members of the
19 State Civil Air Patrol functioning under Subpart C of Part 5 of Article 13 of
20 Chapter 143B of the General Statutes, under compensable circumstances,
21 compensation payable shall be calculated upon the average weekly wage the
22 ~~volunteer fireman~~; ~~firefighter~~, volunteer member of an organized rescue
23 squad, authorized pickup firefighter of the North Carolina Forest Service;
24 when that individual is engaged in emergency fire suppression activities for
25 the North Carolina Forest Service, member of an auxiliary police
26 department, or senior member of the State Civil Air Patrol was earning in the
27 employment wherein he principally earned his livelihood as of the date of
28 injury. Provided, however, that the minimum compensation payable to a
29 ~~volunteer fireman~~; ~~firefighter~~, volunteer member of an organized rescue
30 squad, an authorized pickup firefighter of the North Carolina Forest Service
31 of the Department of Agriculture and Consumer Services, when that
32 individual is engaged in emergency fire suppression activities for the North
33 Carolina Forest Service, a sworn member of an auxiliary police department
34 organized pursuant to G.S. 160A-282, or senior members of the State Civil
35 Air Patrol shall be sixty-six and two-thirds percent (66 2/3%) of the
36 maximum weekly benefit established in G.S. 97-29."

37 **SECTION 2.(d)** When renewing its existing contract with its third-party
38 administrator, which contract expires on June 30, 2014, or contracting with a different
39 third-party administrator, the State Fire and Rescue Commission shall, through its contract,
40 require its workers' compensation third-party administrator to do all of the following:

- 41 (1) Establish a performance management system to set loss prevention goals and
42 track and measure the effectiveness of loss prevention interventions.
- 43 (2) Evaluate how additional data analytics software or cost models could help
44 manage claim costs.
- 45 (3) Determine the expenditures per department allocated to loss prevention
46 services geared toward experience-rating reductions and compare the
47 expenditures allocated per department to the experience-rating premium
48 surcharges paid by each department.
- 49 (4) Assess the different ways in which the Rating Modification Model could be
50 adjusted to generate more revenue and incentivize departments to be more
51 engaged in loss prevention services; and, if warranted, implement changes to

- the Experience Rating Modification Model based on the approval of the Volunteer Safety Workers' Compensation Fund Board.
- (5) Track all legal claims and associated expenses open as of July 1, 2014, and filed thereafter, including information on the reasons each claim was filed and the conditions of the settlement or court ruling, and then share the information and analysis from the database with the Volunteer Safety Workers' Compensation Fund Board at every quarterly board meeting.
- (6) Track suspected and confirmed fraudulent claims open as of July 1, 2014, and filed thereafter and then share the information and analysis from the database with the Volunteer Safety Workers' Compensation Fund Board at every quarterly board meeting.
- (7) Track information for all claims awarded indemnity compensation affected by the minimum weekly compensation provision, as provided in G.S. 97-2(5), that are open on July 1, 2014, and filed on or after July 1, 2014. The database should include the following:
- The date of the volunteer's injury.
 - A detailed description of the injury.
 - The volunteer's (paid) occupation, or status as a "student" or "unemployed."
 - The volunteer's weekly wages from his or her regular paid occupation.
 - The amount of indemnity compensation awarded per week based on weekly wages from the regular, paid occupation.
 - Whether the claim is affected by the minimum weekly compensation provision.
 - The volunteer's post-injury return date to volunteer duties.
- (8) Report to the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting on all claims awarded indemnity compensation affected by the minimum compensation provision. The report shall include the following:
- The total indemnity compensation awarded for each claim, as well as the compensation per week and the number of weeks of compensation.
 - For each claim, the difference between the indemnity compensation awarded per week to the volunteer and the volunteer's weekly wages from his or her regular, paid occupation.
 - For each claim, the difference between the total indemnity compensation awarded to the volunteer for number of weeks unable to return to volunteer duties and the volunteer's total wages from regular, paid occupation for the same time period.
 - The total number of claims affected by the minimum weekly compensation provision (within a specified time period).
 - The total workers' indemnity compensation amount awarded for all claims affected by the minimum weekly compensation provision (within a specified time period).
 - The difference between the total indemnity compensation awarded to volunteers and the total of all volunteers' wages from their regular, paid occupations for the same time period (within a specific time period).
- (9) Track information for all claims awarded indemnity compensation in which a volunteer can return to his or her paid occupation but not his or her

volunteer duty that are open on July 1, 2014, and filed on or after July 1, 2014. The database should include the following:

- a. Whether the volunteer has the ability to perform his or her paid occupation but not his or her volunteer duty.
- b. The volunteer's weekly wages from his or her regular, paid occupation.
- c. The amount of indemnity compensation awarded per week based on weekly wages from regular, paid occupation.
- d. The volunteer's post injury return date to volunteer duties.

(10) Report to the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting on the claims awarded indemnity compensation in which the volunteer can return to his or her paid occupation but not to his or her volunteer duty. The report shall include:

- a. The total number of claims where the volunteer is being awarded indemnity compensation when they can return to their regular, paid occupations (within a specified time period).
- b. The total indemnity compensation awarded for each claim, as well as the compensation per week and the number of weeks of compensation.
- c. The total indemnity compensation awarded for all claims (within a specified time period).

(11) Include a form in the claims-closing material for volunteers who will not be able to return to their regular, paid occupations even though they can return to their volunteer duties, and track these claims and associated wages lost and prepare a report to share with the Volunteer Safety Workers' Compensation Fund Board at every quarterly meeting.

(12) Develop a model return-to-work program for use by fire and rescue departments that participate in the Fund and work with a limited number of departments to implement and test the program for a two-year time period.

(13) Develop metrics by which to determine if the return-to-work program reduces workers' compensation costs.

By January 1, 2015, the State Fire and Rescue Commission shall report to the Fiscal Research Division, the House Appropriations Subcommittee on General Government, and the Senate Appropriations Committee on General Government and Information Technology on the status of the Commission's data collection and analysis efforts and shall include in the report a copy of the State Fire and Rescue Commission's contract with the third-party administrator.

The State Fire and Rescue Commission shall include the provisions of this subsection in all future contracts with its workers' compensation third-party administrators.

This subsection is effective when this act becomes law.

SECTION 3. Supplemental Pensions. – (a) Effective October 1, 2014,

G.S. 58-86-55 reads as rewritten:

"§ 58-86-55. Monthly pensions upon retirement-attaining the age of 55 years.

(a) Any member who has served 20 years as an "eligible firefighter" or "eligible rescue squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund. The monthly pension shall be in the amount of one hundred seventy dollars (\$170.00) per month. Any retired firefighter receiving a pension shall, effective July 1, 2008, receive a pension of one hundred seventy dollars (\$170.00) per month.

(b) Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue squad member" shall receive a pension prior to July 1, 1983. ~~No member shall be entitled to a pension hereunder~~

1 ~~until the member's official duties as a fireman or rescue squad worker for which the member is~~
2 ~~paid compensation shall have been terminated and the member shall have retired as such~~
3 ~~according to standards or rules fixed by the board of trustees.~~

4 (c) A member who is totally and permanently disabled while in the discharge of the
5 member's official duties as a result of bodily injuries sustained or as a result of extreme exercise
6 or extreme activity experienced in the course and scope of those official duties and who leaves
7 the fire or rescue squad service because of this disability shall be entitled to be paid from the
8 fund a monthly benefit in an amount of one hundred seventy dollars (\$170.00) per month
9 beginning the first month after the member's fifty-fifth birthday. All applications for disability
10 are subject to the approval of the board who may appoint physicians to examine and evaluate
11 the disabled member prior to approval of the application, and annually thereafter. Any disabled
12 member shall not be required to make the monthly payment of ten dollars (\$10.00) as required
13 by G.S. 58-86-35 and G.S. 58-86-40.

14 (d) A member who is totally and permanently disabled for any cause, other than line of
15 duty, who leaves the fire or rescue squad service because of this disability and who has at least
16 10 years of service with the pension fund, may be permitted to continue making a monthly
17 contribution of ten dollars (\$10.00) to the fund until the member has made contributions for a
18 total of 240 months. The member shall upon attaining the age of 55 years be entitled to receive
19 a pension as provided by this section. All applications for disability are subject to the approval
20 of the board who may appoint physicians to examine and evaluate the disabled member prior to
21 approval of the application and annually thereafter.

22 (e) A member who, because the member's residence is annexed by a city under Part 2 or
23 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
24 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
25 General Statutes, or whose volunteer department is taken over by a city or county, and because
26 of such annexation or takeover is unable to perform as a firefighter or rescue squad worker of
27 any status, and if the member has at least 10 years of service with the pension fund, may be
28 permitted to continue making a monthly contribution of ten dollars (\$10.00) to the fund until
29 the member has made contributions for a total of 240 months. The member upon attaining the
30 age of 55 years and completion of such contributions shall be entitled to receive a pension as
31 provided by this section. Any application to make monthly contributions under this section
32 shall be subject to a finding of eligibility by the Board of Trustees upon application of the
33 member.

34 (f) The pensions provided shall be in addition to all other pensions or benefits under
35 any other statutes of the State of North Carolina or the United States, notwithstanding any
36 exclusionary provisions of other pensions or retirement systems provided by law."

37 **SECTION 3.(b)** G.S. 105-228.5(d)(3) reads as rewritten:

38 "(3) Additional Rate on Property Coverage Contracts. – An additional tax at the
39 rate of seventy-four hundredths percent (0.74%) applies to gross premiums
40 on insurance contracts for property coverage. The tax is imposed on ten
41 percent (10%) of the gross premiums from insurance contracts for
42 automobile physical damage coverage and on one hundred percent (100%)
43 of the gross premiums from all other contracts for property coverage.
44 ~~Twenty-five percent (25%)~~ Twenty percent (20%) of the net proceeds of this
45 additional tax must be credited to the Volunteer Fire Department Fund
46 established in Article 87 of Chapter 58 of the General Statutes. Twenty
47 percent (20%) of the net proceeds must be credited to the Department of
48 Insurance for disbursement pursuant to G.S. 58-84-25. Up to twenty percent
49 (20%), as determined in accordance with G.S. 58-87-10(f), must be credited
50 to the Workers' Compensation Fund. The remaining net proceeds must be
51 credited to the General Fund."

SECTION 3.(c) Using a portion of the additional funds made available to the General Fund through the amendment to G.S. 105-228.5 made by Section 3(b) of this act, the sum of one million four hundred thousand dollars (\$1,400,000) is appropriated for fiscal year 2014-2015, recurring from the General Fund to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund established under G.S. 58-86-1.

SECTION 3.(d) The Department of State Treasurer shall report by March 1, 2015, and for two years thereafter, to the House Committee on State Personnel and the Senate Committee on Pensions & Retirement and Aging on the Department's progress toward the following efforts related to the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund:

(1) Building appropriate lapse assumptions into the State's annual required contribution to the pension fund.

(2) Collecting timely member contributions to the pension fund.

SECTION 4. Grant Funds. – (a) Effective January 1, 2015, and applicable to the 2015 grant process, G.S. 58-87-1(a1) reads as rewritten:

"(a1) Grant Program. – An eligible fire department may apply to the Commissioner for a grant under this section. In awarding grants under this section, the Commissioner must, to the extent possible, select applicants from all parts of the State based upon need. The Commissioner must award the grants on ~~May 15~~ May 15, or on the first business day after May 15 if May 15 falls on a weekend or a holiday, of each year subject to the following limitations:

(1) The size of a grant may not exceed thirty thousand dollars (\$30,000).

(2) The applicant shall match the grant on a dollar-for-dollar ~~basis~~ basis, unless the applicant receives less than fifty thousand dollars (\$50,000) per year from municipal and county funding, in which case the applicant shall match one dollar (\$1.00) for each three dollars (\$3.00) of grant funds.

(3) The grant may be used only for equipment purchases, payment of highway use taxes on those purchases, costs of putting property acquired from the Department of Defense through the Firefighter Property (FFP) and federal Excess Property (FEPP) programs in service, or capital expenditures necessary to provide fire protection services."

SECTION 4.(b) G.S. 58-87-1(c) reads as rewritten:

"(c) Report. – The Commissioner must submit a written report to the General Assembly within 60 days after the grants have been made. This report must contain the following:

(1) The amount of the grant and the name of the recipient.

(2) The Fund balance at the beginning of the grant cycle.

(3) Cash receipts through the grant cycle.

(4) Cash disbursements through the grant cycle.

(5) The Fund balance at the end of the grant cycle."

SECTION 4.(c) G.S. 58-87-5 reads as rewritten:

"§ 58-87-5. Volunteer Rescue/EMS Fund.

(a) There is created in the Department of Insurance the Volunteer Rescue/EMS Fund to provide grants to volunteer rescue ~~units~~ units, rescue/EMS units, and EMS units providing rescue or rescue and emergency medical services to purchase equipment and make capital improvements. An eligible ~~rescue or rescue/EMS~~ unit may apply to the Department of Insurance for a grant under this section. The application form and criteria for grants shall be established by the Department. The North Carolina Association of Rescue and Emergency Medical Services, Inc., shall provide the Department with an advisory priority listing for rescue equipment eligible for funding, and the Department of Health and Human Services shall provide the Department with an advisory priority listing of EMS equipment eligible for funding. The State Treasurer shall invest the Fund's assets according to law, and the earnings shall remain in the Fund. On ~~December 15~~ December 15, or on the first business day after

December 15 if December 15 falls on a weekend or a holiday, of each year, the Department shall make grants to eligible ~~rescue or rescue/EMS~~ units subject to all of the following limitations:

- (1) A grant to an applicant who is required to match the grant with non-State funds may not exceed twenty-five thousand dollars (\$25,000), and a grant to an applicant who is not required to match the grant with non-State funds may not exceed three thousand dollars (\$3,000).
- (2) An applicant whose liquid assets, when combined with the liquid assets of any corporate affiliate or subsidiary of the applicant, are more than one thousand dollars (\$1,000) shall match the grant on a dollar-for-dollar basis with non-State funds.
- (3) The grant may be used only for equipment purchases or capital expenditures.
- (4) An applicant may receive no more than one grant per fiscal year.
- (5) The grant may be used only for purposes related to services that the unit is authorized to provide.

In awarding grants under this section, the Department shall to the extent possible select applicants from all parts of the State based upon ~~need~~, subject to the following priority order: (i) rescue units, (ii) rescue/EMS units, (iii) EMS units that are licensed as EMS providers under G.S. 131E-155.1, and, finally, (iv) EMS units that are volunteer fire departments that are a part of a county's EMS system plan. Up to two percent (2%) of the Fund may be used for additional staff and resources to administer the Fund in each fiscal year. In addition, notwithstanding G.S. 58-78-20, up to four percent (4%) of the Fund may be used for additional staff and resources for the North Carolina Fire and Rescue Commission.

(b) ~~A rescue, emergency medical services, or rescue/EMS unit~~ is eligible for a grant under this section if it meets all of the following conditions:

- (1) Repealed by Session Laws 1989 (Regular Session, 1990), c. 1066, s. 33(a).
- (2) It consists entirely of volunteer members, with the exception that the unit may have paid members to fill the equivalent of 10 full-time paid positions.
- (3) ~~It has been recognized by the Department as an organization that provides rescue, emergency medical services, or rescue and emergency medical services. A unit that provides emergency medical services only is eligible for grant funding only after all those eligible rescue or rescue and emergency medical services units that are approved have been funded each grant year. A unit that only provides emergency medical services may be funded up to the level of emergency medical services that the unit is approved to provide by the authority having jurisdiction.~~ a rescue unit, a rescue/EMS unit, or an EMS unit.
- (4) It satisfies the eligibility criteria established by the Department under subsection (a) of this section.

(c) For the purpose of this section and Article 88 of this Chapter, "rescue" means the removal of individuals facing external, nonmedical, and nonpatient related peril to areas of relative safety. A "rescue unit" or "rescue squad" means a group of individuals who are not necessarily trained in emergency medical services, fire fighting, or law enforcement, but who expose themselves to an external, nonmedical, and nonpatient related peril to effect the removal of individuals facing the same type of peril to areas of relative safety. The unit or squad must comply with existing State statutes and with eligibility criteria established by the North Carolina Association of Rescue and Emergency Medical Services, Inc.

(d) For the purposes of this section, "emergency medical services" or "EMS" has the same meaning as in G.S. 131E-155(6). Unless otherwise more narrowly specified, an "EMS unit" means either (i) an EMS provider licensed under G.S. 131E-155.1 or (ii) a volunteer fire or fire/rescue department that is part of its county's EMS system plan. The unit or squad must

1 comply with existing State statutes and with eligibility criteria established by the North
2 Carolina Association of Rescue and Emergency Medical Services, Inc.

3 (e) Report. – The Commissioner must submit a written report to the General Assembly
4 within 60 days after the grants have been made. This report must contain the following:

5 (1) The amount of the grant and the name of the recipient.

6 (2) The Fund balance at the beginning of the grant cycle.

7 (3) Cash receipts through the grant cycle.

8 (4) Cash disbursements through the grant cycle.

9 (5) The Fund balance at the end of the grant cycle."

10 **SECTION 4.(d)** Effective July 1, 2015, G.S. 58-87-7 reads as rewritten:

11 **"§ 58-87-7. Oversight and accountability of grant awards.**

12 (a) Examination of Purchased Equipment and Supplies. – To increase accountability
13 and to expedite receipt of certain grant awards, notwithstanding any other provision, the Office
14 of the State Fire Marshal and other employees of the Department of Insurance may in their
15 discretion conduct on-site examinations of fire, rescue, and EMS equipment and supplies
16 purchased with funds awarded from either the Volunteer Fire Department Fund or the
17 Volunteer Rescue/EMS Fund. Fund for up to five years from the date of the grant award. The
18 on-site examinations may include the inspection of equipment purchased from prior grants and
19 may be conducted prior to or simultaneous with the delivery of the grant awards. The on-site
20 examination shall document what equipment and supplies have been purchased by the
21 volunteer fire department or volunteer rescue/EMS department and whether those items were
22 received by the department and visually reviewed by the on-site examiner. Items that have
23 already been distributed or put in the field shall be noted by the on-site examiner. The Office of
24 the State Fire Marshal shall maintain records of on-site inspections and provide them, or a
25 summary thereof, in reports reports of such inspections, upon request, to the State Auditor or
26 the Office of State Budget and Management.

27 (b) Reimbursement to Funds. – If equipment purchased with grant funds is disposed of
28 within five years of the date of the grant award funding its purchase, then the grant recipient
29 shall reimburse the appropriate fund the amount of matching funds used for the purchase of the
30 equipment, less depreciation.

31 (c) Transfer of Purchased Equipment. – If a grant recipient shall cease to exist within
32 five years of the date of award of the grant, it shall transfer, subject to the approval of the
33 Department of Insurance, any and all equipment purchased with such grant funds to whichever
34 department shall assume responsibility for providing service to the grant recipient's area of
35 service or to another appropriate department that may effectively use the equipment."

36 **SECTION 4.(e)** By the effective date of subsection (d) of this section, the
37 Department of Insurance shall take the following actions to facilitate the implementation and
38 enforcement of G.S. 58-87-7:

39 (1) Adopt rules to establish specific guidelines for the following:

40 a. G.S. 58-87-7(b), enacted by subsection (d) of this section.

41 b. G.S. 58-87-7(c), enacted by subsection (d) of this section, including
42 guidelines for determining which department receives the equipment
43 of a dissolved department and under what circumstances.

44 (2) Provide transfer of equipment forms to fire and rescue departments that
45 receive grant equipment from dissolved departments.

46 Additionally, in time for the 2015 grant cycle, the Department shall add language to the
47 Agreement of Payment form departments must fill out as part of the grant application process
48 to ensure that departments understand what will happen to grant equipment in the event of
49 dissolution.

50 **SECTION 4.(f)** No later than January 1, 2015, the Department of Insurance shall
51 report to the Joint Program Evaluation Oversight Committee on the Department's efforts to

1 update and correct its computer code that assigns points to grant applicants for funds awarded
2 under Article 87 of Chapter 58 of the General Statutes.

3 **SECTION 5.** Effective Dates. – Except as otherwise provided, this act becomes
4 effective July 1, 2014.



HOUSE BILL 1034: Volunteer Fire and Rescue Finances (PED)

2013-2014 General Assembly

Committee: Senate Pensions & Retirement and Aging
Introduced by: Reps. Howard, Moffitt, Lucas
Analysis of: PCS to Fourth Edition
H1034-CSME-23

Date: June 24, 2014
Prepared by: Theresa Matula *
Committee Staff

SUMMARY: *House Bill 1034 amends the following: Local Firefighters' Relief Fund; Statewide Firefighters' Relief Fund; Rescue Squad Workers' Relief Fund; Workers' Compensation Fund for Volunteer Safety Workers; NC Firefighters' and Rescue Squad Workers' Pension Fund; and Volunteer Fire Department Fund and Volunteer Rescue/EMS Fund (grant funds). Upon introduction, this bill was a recommendation by the Joint Legislative Program Evaluation Oversight Committee based on their reports.¹*

The PCS for HB 1034 makes two changes: it provides a few more months for the Department of State Treasurer to implement the changes in Section 3(a) by changing the effective date from July 1, 2014, to October 1, 2014, and amends Section 4(c) to delete the words "emergency medical" because it incorrectly narrows the scope.

[As introduced, this bill was identical to S747, as introduced by Sens. Hartzell, Bingham, Randleman, which is currently in Senate Ref to Finance. If fav, re-ref to Pensions & Retirement and Aging.]

CURRENT LAW: Safety workers and their departments receive benefits that are supported (in whole or in part) by a portion of the revenue from gross premium taxes on property insurance and from vehicle inspection fees. Benefits vary and are paid from various funds:

1. Firefighters' relief funds (both local and statewide) and the Rescue Squad Workers' Relief Fund generally provide assistance to safety workers suffering from sickness or financial distress caused by their service. Relief funds are managed either by local boards or by a statewide organization.
2. The Safety Workers' Compensation Fund provides workers compensation through participating departments to volunteer firefighters and rescue squad workers.
3. The Firefighters' and Rescue Squad Workers' Pension Fund provides a supplemental pension payment of \$170 per month after paying \$10 per month for 20 years and retiring.
4. The Volunteer fire Department Fund and Volunteer Rescue/EMS Fund provide grants to help smaller departments to purchase equipment and supplies.

BILL ANALYSIS: House Bill 1034 amends the Funds as outlined below.

Local Firefighters' Relief Fund - Section 1(a) of the bill amends Chapter 58, Article 84, which is being named the "Local Firefighters' Relief Fund" and makes further conforming changes utilizing this name and distinguishing it from the Statewide Firefighters' Relief Fund. This section makes the following changes:

- Amends the definition of "fire district" to include the following additional conditions: it is rated and certified by the Commissioner; and the response area has been approved by the local municipal government or by the local board of county commissioners (G.S. 58-84-5).

¹Local Boards and Associations Administer Firefighters' and Rescue Squad Workers' Relief Funds with Limited State Oversight; Revenue and Cost Trends Indicate Deficit in Volunteer Safety Workers' Compensation Fund in FY 2020-21; Department of State Treasurer Should Strengthen Its Oversight of the Firefighters' and Rescue Squad Workers' Pension Fund; and Improved Oversight of Volunteer Fire Department Fund and Volunteer Rescue/EMS Fund Needed; \$8 Million Surplus Found.

O. Walker Reagan
Director



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- Increases from 1% to 2% (G.S. 58-84-25) the amount of funds the Insurance Commissioner must deduct from tax proceeds for the purpose of administering the disbursement of funds by the board of trustees by law (G.S. 58-84-35). (S.L. 2013-306, Sec 20.2(c) changed it to 1%, this changes it back to 2%.)
- Changes from January 1 to February 1 the month in which a county must provide the Commissioner with the tax value of property located in each fire district and removes redundant language (G.S. 58-84-25).
- Further defines a destitute member firefighter for which assistance can be provided and adjusts the list of allowable expenditures for local firefighter relief funds, including providing for physicals (G.S. 58-84-35).
- Adds a new section (G.S. 58-84-32) to require local boards of trustees to manage local relief funds as prudent trustees of the funds and subject to current law (Chapter 36E Uniform Prudent Management of Institutional Funds Act). Replaces "actuarially unsound" with "financially unsound" and defines it (G.S. 58-84-35).
- Increases the information the State Firemen's Association must annually certify to the Department of Insurance for each local unit (G.S. 58-84-40).
- Requires the Commissioner of Insurance to maintain a database of reports and to issue each fire department a unique fire department identification number (FDID) (G.S. 58-84-41).
- Amends current law to allow a fire chief if authorized by a city or county, to file a certificate of eligibility with the Commissioner. Currently only the clerk or finance officer of each city or county that has a local board of trustees is allowed (G.S. 58-84-46).
- Repeals certain local laws inconsistent with the Article (G.S. 58-84-65).
- Provides line of duty death benefits to firefighters whose departments are not members of the North Carolina Firemen's Association (G.S. 58-84-52).

Section 1(b) specifies that the database of reports required by G.S. 58-84-40, and developed by the Commissioner of Insurance as required by G.S. 58-84-41, must be operational no later than December 1, 2015, in order to receive information from the NC State Firemen's Association by January 1, 2016. The reports from the State Firemen's Association include: a full and detailed accounting of funds received and disbursed, membership qualifications and the number of firefighters that received benefits; a list of the members in each local unit; the fund balance for each local units' relief funds; and any departments that have exceeded the maximum balance required by G.S. 58-84-33(a). **Section 1(c)** amends the law pertaining to the disbursement of funds by the Insurance Commissioner (G.S. 58-84-25), effective July 1, 2015, to require the Insurance Commissioner to distribute tax proceed allocations to fire districts by electronic funds transfer, unless this is not feasible in which case a paper check will be issued. It also adds a subsection (G.S. 58-84-25(c1)), conforming to changes in Section 1(d) of the bill. **Section 1(d)** adds a new section pertaining to maximum fund balances (G.S. 58-84-33), which will become effective July 1, 2015, and prohibits a local fire department's relief fund from exceeding the product of the number of members multiplied by \$2,500. The State Firemen's Association is required to annually calculate and notify each local department of its relief fund's maximum allowable balance. A local fire department whose relief fund balance exceeds the maximum fund balance will not be entitled to receive a distribution for that year and the Insurance Commissioner will redistribute funds in accordance with law pertaining to the disbursement of funds. The bill includes statutory instructions in the event that all of a county's fire districts exceed the amount (G.S. 58-84-25(c1)). The bill also adds a new subsection allowing a board of trustees of a local Firefighters' Relief Fund, with authorization by the State Firemen's Association, to dedicate a portion of the fund toward providing supplemental retirement without having it count toward the maximum allowable balance.

Statewide Firefighters' Relief Fund - **Section 1(e)** of the bill amends Chapter 58, Article 85, and renames the Article: Statewide Firefighters' Relief Fund. This section of the bill also does the following:

- Removes the prohibition on a firefighter or county fire marshal from receiving benefits under the fund until the firefighters' relief fund of his city or town has been exhausted.

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- Current law requires the treasurer of the State Firemen's Association to provide a report of expenditures to the State Treasurer, the bill requires that the Commissioner of Insurance also receive the report (G.S. 58-85-10).
- Adds a section (G.S. 58-85-35) requiring the State Firemen's Association to manage the Fund as a prudent trustee of the funds and subject to current law (Chapter 36E of the NC General Statutes.)

Rescue Squad Workers' Relief Fund – This Fund is amended as follows: **Section 1(f)** amends a section in the Rescue Squad Workers' Relief Fund related to the Board certifying that expenditures will not render the Fund "financially unsound" as opposed to "actuarially unsound". **Section 1(g)** adds a new section (G.S. 58-88-35) to require the North Carolina Association of Rescue and Emergency Medical Services, Inc. to manage the Fund as a prudent trustee of the funds and subject to current law (Chapter 36E of the NC General Statutes.)

Department of Insurance Report - **Section 1(h)** requires the Department of Insurance, beginning April 1, 2016, to provide an annual report to the House Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology on each local firefighters' relief fund board, the North Carolina State Firemen's Association, and the North Carolina Association of Rescue and Emergency Medical Services, Inc.

Mebane Firemen's Supplemental Retirement Fund Repeal– **Section 1(i)** repeals Chapter 183 of the 1979 Session Laws, which created the Mebane Firemen's Supplemental Retirement Fund, and transfers remaining funds to the Mebane Local Firefighters' Relief Fund.

Workers' Compensation Fund - **Section 2** makes changes to the workers compensation fund for certain safety workers. It removes the requirement that an "eligible unit" be a volunteer unit and includes a list of eligible entities that support eligible units (G.S. 58-87-10). (An eligible unit must still be non-municipal and non-profit.) Every eligible unit and eligible entity that elects to participate shall pay into the Fund an amount set annually based on each member of the roster and the amount may vary based on whether an individual is a volunteer, a part-time employee, or a full-time employee. **Section 2(b)** amends the current law (G.S. 58-87-10(f) as amended by S.L. 2013-360, Section 20.2(e)), effective April 1, 2016, to require the Department of Insurance to annually conduct an actuarial study that: 1) projects the amount required to meet the needs of the Fund for five years, 2) reports on the nature of claims paid, including trends, 3) calculates how much revenue from the State and member premiums would be required to meet the needs of the Fund under various scenarios, 4) publishes results no later than February 1 of each year. Beginning in 2016, and every five years, the study must also include a comparison of Fund premium levels to the premium levels of employees of municipal fire and rescue departments, a calculation of the amount of revenue generated by experience-rating premium surcharges, and recommends any changes. The Department is allowed to contract with a third party to conduct the study but there are certain limitations if actuary is the same as the one for the Volunteer Safety Worker's Compensation Board. **Section 2(d)** provides direction to the State Fire and Rescue Commission when renewing its existing contract with its third-party administrator when the contract expires on June 30, 2014, by setting out 13 specific tasks that must be set out in the contract with the workers' compensation third party administrator. Further provides that by January 1, 2015, the State Fire and Rescue Commission must report to the Fiscal Research Division, the House Appropriations Subcommittee on General Government and the Senate Appropriations Committee on General Government and Information Technology on the status of the Commission's data collection and analysis. This subsection would become effective when it becomes law.

NC Firefighters' and Rescue Squad Workers' Pension Fund – *The PCS changes the effective date for Section 3(a) from July 1, 2014 to October 1, 2014.* **Section 3 (a)** of the bill extends supplemental pension payments to all participants aged 55 and over who have paid \$10 per month for the required 20 years (the maximum contribution time), regardless of whether they have actually retired from firefighting or rescue squad work. **Section 3(b)-(c)** provides that the extension of payments is paid for by a reduction of funds going to the Volunteer Fire Department Fund (G.S. 105-228.5(d)(3)). A portion of the additional funds

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available to the General Fund, \$1,400,000, is appropriated for FY 2014-15, recurring from the General Fund to the NC Firefighters' and Rescue Workers' Pension Fund. **Section 3(d)** requires the Department of State Treasurer to report on March 1, 2015, and for two years thereafter, on the progress toward building appropriate lapse assumptions into the State's required contribution to the pension fund and collecting timely member contributions.

Grant Funds - The **Volunteer Fire Department Fund** provides matching grants to volunteer fire departments to purchase equipment and make capital improvements. The **Volunteer Rescue/EMS Fund** provides grants to volunteer rescue units providing rescue and emergency medical services. The Office of the State Fire Marshal and other employees of the Department of Insurance are allowed to conduct on-site examinations of fire, rescue, and EMS equipment and supplies purchased with funds awarded from either Fund (G.S. 58-87-7).

Section 4 of the bill is effective January 1, 2015, and is applicable to the 2015 grant process. It requires the Commissioner to award grants to eligible fire departments on May 15 (or on the first business day after May 15). The current law outlines limitations on the grants which are further clarified by the bill to require the applicant to match the grant dollar-for-dollar unless they receive less than \$50,000 per year from municipal and county funding, in which case they must match it on a \$1 to \$3 grant fund basis; and further that the grant may be used to pay the costs of putting property acquired from the Department of Defense through the Firefighter Property (FFP) and federal Excess Property (FEPP) programs in service (G.S. 58-87-1(a)). **Section 4(b)** specifies content that must be contained in the Volunteer Fire Department Fund report that the Commissioner is required to submit to the General Assembly within 60 days after the grants have been made (G.S. 58-87-1(c)). **Section 4(c)** pertains to grants from the Volunteer Rescue/EMS Fund. *The PCS deletes the words "emergency medical" in the sentence "The grant may be used only for purposes related to emergency medical services that the unit is authorized to provide." Including the words "emergency medical" incorrectly narrows the scope of the grant to just EMS –the grant is currently available to both EMS and rescue units.* It clarifies the process if the December 15th award date falls on a weekend or holiday; and clarifies that the Department, to the extent possible, select applicants based on need in the following priority order: (i) rescue units; (ii) rescue/EMS units, (iii) EMS units licensed as EMS providers, (iv) EMS units that are volunteer fire departments and part of a county's EMS system plan. A definition of "emergency medical services" (G.S. 58-87-5) is provided. Additionally, a subsection is added to the current law regarding the report by the Commissioner on the Volunteer Rescue/EMS Fund and mirrors the content required in **Section 4(b)** for the Volunteer Fire Department Fund (G.S. 58-87-5). **Sections 4(d)-(e)** amend the law on the oversight and accountability of grant awards effective July 1, 2015, as it pertains to reimbursement to funds and the transfer of purchased equipment. By the above date, the Department of Insurance must take action to facilitate the implementation and enforcement of the amendments by adopting rules establishing guidelines. **Section 4(f)** requires the Department to report to the Joint Program Evaluation Oversight Committee on the Department's efforts to update and correct its computer code that assigns points to grant applicants for funds awarded.

EFFECTIVE DATES: House Bill 1034 becomes effective July 1, 2014, except as otherwise specified in the summary.

* Ryan Blackledge, staff attorney, Bill Drafting Division, contributed to this summary.

GENERAL ASSEMBLY OF NORTH CAROLINA



Legislative Retirement Note

BILL NUMBER: House Bill 1034 (Second Edition)
SHORT TITLE: Volunteer Fire and Rescue Finances (PED).
SPONSOR(S):

FUNDS AFFECTED: State General Fund

SYSTEM OR PROGRAM AFFECTED: North Carolina Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF).

BILL SUMMARY:

Section 1: Amends statutes related to local firefighters' relief funds in Article 84 of Chapter 58 of the General Statutes. While this section permits fire departments and rescue squads to use relief funds to pay member contributions to the FRSWPF, this change does not affect the liability or the State's contribution for the FRSWPF.

Section 2: Amends statutes related to the workers' compensation fund for certain safety workers. These changes do not affect the FRSWPF.

Section 3: Amends G.S. 58-86-55 to allow payment of monthly benefits in the FRSWPF at age 55 with 20 years of service, despite continued paid employment as a firefighter or rescue squad worker. This section appropriates \$1,400,000 for FY 2014-15, recurring, from the General Fund to the FRSWPF, which will be more than sufficient to meet the increased required contribution due to this provision, as detailed below. This section also redirects to the General Fund 5% of the proceeds of the tax on gross premiums from property insurance coverage, which does not affect the FRSWPF.

Section 4: Amends statutes related to grant funds for fire departments. These changes do not affect the FRSWPF.

EFFECTIVE DATE: July 1, 2014

ESTIMATED IMPACT ON STATE:

Buck Consultants, the actuary for the FRSWPF, and Hartman & Associates, the actuary for the General Assembly, estimate that the provisions of Section 3 will increase the normal cost and accrued liability contributions in FY 2014-15 and subsequent years as follows:

	<u>Buck Consultants</u>	<u>Hartman & Associates</u>
Normal Cost	\$200,000	\$228,000
Accrued Liability Contribution	\$800,000	\$872,000
Total Annual Cost	\$1,000,000	\$1,100,000

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of both actuaries are based on the employee data, actuarial assumptions and actuarial methods used to prepare the June 30, 2012 actuarial valuation, except as noted below. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 6/30/2012 unless otherwise noted, M = millions)	
	FRSWPF
Active Members	
Count	40,870
Average Age	40
Average Service	11.3
Inactive Members	
Count	154
Retired Members	
Count	11,912
Annual Benefits	\$24M
Average Age	68
New Retirees During 2013	575

Financial Statistics (as of 6/30/2012 unless otherwise noted, M = millions)	
	FRSWPF
Accrued Liability (AL)	\$404M
Actuarial Value of Assets (AVA)	\$339M
Market Value of Assets (MVA)	\$322M
Unfunded Accrued Liability (AL - AVA)	\$65M
Funded Status (AVA / AL)	84%
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	\$14.6M
Assumed Rate of Investment Return	7.25%
Salary Increase Assumption (includes 3.50% inflation and productivity)	Not applicable
Cost Method	Entry Age Normal
Amortization	12 year, closed, flat \$
Demographic assumptions based on 2005-2009 experience, RP-2000 mortality with age adjustments, and projection of future mortality improvement with scale AA	

Benefit Provisions	
	FRSWPF
Formula	\$170 per month
Unreduced retirement age/service	55/20
Employee contribution (as % of pay)	\$10 per month

In addition to the assumptions above from the June 30, 2012 valuation, both actuaries used an assumption that some portion of current members have lapsed (ceased making contributions) and will thus neither contribute in the future nor earn future service. This assumption is based on an initial audit of records performed by Buck Consultants and presented to the Board of Trustees in January, 2014 and is further detailed in the notes from the individual actuaries.

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Volunteer Fire & Rescue Finances (House Bill 1034 and Senate Bill 747)", May 21, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1034/Senate Bill 747, Section 3: An Act to Amend the Supplemental Pensions for Firefighters and Rescue Squad Workers", May 27, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: May 27, 2014



Signed Copy Located in the NCGA Principal Clerk's Offices

VISITOR REGISTRATION SHEETSENATE PENSIONSJune
~~July~~ 25, 2014VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Kevin Sigrist	Dept of State Treasurer
Chelsea Oakes	"DSTO"
SOLARI	DST
Dan Lewis	KCO
Sam Harris	NC Dept of State Treasurer
John Bodie	B&H
CADY THOMAS	NCLAR
Bill M. Hee	DSTreas.
Schorr Johnson	State Treasurer
Charles King	School of Government
Steve Toole	DST - NC Retirement
Tom Friedman	DST
Tanya Horton	Trueman Sanders
Ellen O'Brien	PFFPNc
Madeline Hurley	Intern
Whitney Christensen	NCLM
Elizabeth Prosser	Edmisten, Webb, & Moore

VISITOR REGISTRATION SHEET

SENATE PENSIONS

June ~~July~~ 25, 2014

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Suzanne Beasley	SEANC
Ardis Watkins	SEANC
Myhr Leonard	SEANC
Chuck Stone	SEANC
JOE STRABUSA	NC CHIROPODONTIC ASSN.
Sherril Griggs	UNIT. SHILOH HOSPITAL, NASHVILLE, TN
JC Ruzman	CBS
Jennifer Gasperini	NCMS
Clifford R. Metcalf	
Kelicia Hyde	NCIM
Christopher Wallace	NOBIG
Wendy Kelly	WK SNA
Katherine Joyce	NCASF
Gene Causby	NCSCA
Alleen Frank	NCACC
Sara Salisbury	NC DOS
Fred Bonn	Bonn : ASSO.

[illegible]

VISITOR REGISTRATION SHEETSENATE PENSIONSJune
~~July~~ 25, 2014VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

<u>NAME</u>	<u>FIRM OR AGENCY AND ADDRESS</u>
Brad Youney	DST
Ed Regan	NCRGEX
Don Miller	attn
Bruce Thompson	Parkor Pco
Matt Whittle	STE Arc
Terrence Wilson	ACLU-NC
Joyce Peters	CSS
J Peters	CSS
Pam Deardorff	NCRSP
Lacey Presnell	NC RSP
Allison Waller	Nelson Mullins
Martin Fennell	ItC Fennell
Connor Randolph	NCMS
William H. H. H.	Prinaker and Associates
Therese	EW
Kara Weishaar	ST
Lisa Martin	NC HBA

09-21-201

SENATE SERGEANT-AT-ARMS

COMMITTEE: **Senate Pensions & Retirement and Aging**

DATE: 06-25-2014

ROOM: 1027

1. CHARLES MARSALIS

2. STEVE McKAIG

3. ISAAC WALKER

4. _____

5. _____

6. _____

**Senate Committee on Pensions & Retirement and Aging
Thursday, July 17, 2014, 8:30 AM
643 Legislative Office Building**

AGENDA

Welcome and Opening Remarks

Introduction of Pages

Bills

BILL NO.	SHORT TITLE	SPONSOR
HB 1193	Retirement Technical Corrections Act of 2014.	Representative Collins Representative S. Ross
HB 1194	Retirement Admin. Changes Act of 2014.	Representative Collins Representative S. Ross
HB 1195	Fiscal Integrity/Pension-Spiking Prevention.	Representative Collins Representative S. Ross

Presentations

Other Business

Adjournment

Senate Committee on Pensions & Retirement and Aging
Thursday, July 17, 2014 at 8:30 AM
Room 643 of the Legislative Office Building

MINUTES

The Senate Committee on Pensions & Retirement and Aging met at 8:35 AM on July 17, 2014 in Room 643 of the Legislative Office Building. 9 members were present.

Senator Tom Apodaca, Chair, presided.

Pages Attending: Sophie Hennings of East Bend (Krawiec); Michaela Allred of Yadkinville (Krawiec); Jordan Ragland of Cary (Bryant); Ruth Parsons of Raleigh (Hunt); Charles Van Dyke of Raleigh (Hunt); Weston Davis of Raleigh (Hunt); Davis Braswell of Fuquay-Varina (Van Duyn).

HB 1193 Retirement Technical Corrections Act of 2014. (Representatives Collins, S. Ross)

Rep. Collins explained the bill. Sen. Gunn motioned for a favorable report as to the bill. Motion passed. Sen. Hise was to handle the bill on the floor. No members of the public spoke.

HB 1194 Retirement Admin. Changes Act of 2014. (Representatives Collins, S. Ross)

Rep. Collins explained the bill. The bill explained was a committee substitute. Sen. Rabin motioned for an Unfavorable Report as to the original, but a Favorable Report as to the committee substitute. The motioned carried, Unfav as to Original but Favorable as the Committee Sub. There was no public comment. Sen. Hise was to handle the bill on the floor.

HB 1195 Fiscal Integrity/Pension-Spiking Prevention. (Representatives Collins, S. Ross)

Rep. S. Ross explained the bill. After a small bit of committee discussion, Sen. Randleman motioned for a Favorable Report. The motion carried and the bill was reported out as Favorable as to the Original.

The meeting adjourned at 8:48 AM.



Senator Tom Apodaca, Chair
Presiding



Andy Perrigo, Committee Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT AND AGING COMMITTEE REPORT

Senator Apodaca, Co-Chair

Senator Hise, Co-Chair

Thursday, July 17, 2014

Senator Apodaca,

submits the following with recommendations as to passage:

FAVORABLE

HB 1193 (CS#1)

Retirement Technical Corrections Act of 2014.

Draft Number: None

Sequential Referral: Appropriations/Base Budget

Recommended Referral: None

Long Title Amended: No

HB 1195

Fiscal Integrity/Pension-Spiking Prevention.

Draft Number: None

Sequential Referral: None

Recommended Referral: None

Long Title Amended: No

**UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE COMMITTEE
SUBSTITUTE BILL**

HB 1194

Retirement Admin. Changes Act of 2014.

Draft Number: H1194-PCS40285-SH-35

Sequential Referral: Appropriations/Base Budget

Recommended Referral: None

Long Title Amended: No

TOTAL REPORTED: 3

Senator Ralph Hise will handle HB 1193

Senator Ralph Hise will handle HB 1195

Senator Ralph Hise will handle HB 1194



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GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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2

HOUSE BILL 1193
Committee Substitute Favorable 6/4/14

Short Title: Retirement Technical Corrections Act of 2014.

(Public)

Sponsors:

Referred to:

May 22, 2014

A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL CHANGES TO THE STATUTES AFFECTING THE
STATE RETIREMENT SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-86-2(9) reads as rewritten:

"(9) 'Inactive member' means a member of the fund who is not on a leave of absence under G.S. 58-86-95 and who is ~~not making~~ has not made timely ~~monthly~~ payments under G.S. 58-86-35 or ~~G.S. 58-86-40~~ G.S. 58-86-40 for two consecutive years."

SECTION 2. G.S. 135-5(r) reads as rewritten:

"(r) Notwithstanding anything herein to the contrary, for persons who commenced receiving benefits from the System prior to January 1, 1970, effective July 1, 1973, any member who retired after attaining the age of 60 with 15 or more years of creditable service shall receive a monthly benefit of no less than seventy-five dollars (\$75.00) prior to the application of any optional benefit."

SECTION 3.(a) G.S. 135-5(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance.

A member who became a member of the Supplemental Retirement Income Plan prior to retirement and who remains a member of the Supplemental Retirement Income Plan may make a one-time election to transfer eligible balances, not including any Roth after-tax contributions and the earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement System:

- (1) ~~A plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan.~~
- (2) ~~A plan described in section 403(b) of the Internal Revenue Code.~~
- (3) ~~A plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.~~



(4) ~~An individual retirement account or annuity described in Section 408(a) or 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income.~~

(5) ~~A tax-qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code.~~

(i) a plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code; (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; (iv) an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section 403(a) of the Internal Revenue Code.

Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with no postretirement increases or a special retirement allowance with annual postretirement increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any other allowance will not apply to the special retirement allowance. The Board of Trustees shall provide educational materials to the members who apply for the transfer authorized by this section. Those materials shall describe the special retirement allowance and shall explain ~~(i) the relationship between the transferred balance and the monthly benefit;~~ benefit and (ii) how the member's heirs may be impacted by the election to make this transfer and any costs and fees involved.

For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality and such other tables as may be necessary based upon actual experience. A single set of mortality and such other tables will be used for all members, with factors differing only based on the age of the member and the election of postretirement increases. The Board of Trustees shall modify the mortality and such other tables every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who transfers the member's eligible accumulated contributions from an eligible retirement plan pursuant to this subsection to this Retirement System shall be taxed for North Carolina State Income Tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the eligible plan or the plan through which the transfer was made, whichever is most favorable to the member. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly.

The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a one-time flat administrative fee not to exceed the actual cost of the administrative expenses relating to these transfers. An eligible plan shall not assess a fee specifically relating to a transfer of accumulated contributions authorized under this subsection. This provision shall not prohibit other fees that may be assessable under the plan. Each plan, contract, account, or annuity shall fully disclose to any member participating in a transfer under this subsection any surrender charges or other fees, and such disclosure shall be made contemporaneous with the initiation of the transfer by the member.

The special retirement allowance shall continue for the life of the member and the beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that guarantee payments as follows:

- (1) A member may elect to receive the special retirement allowance for life but with payments guaranteed for a number of months to be specified by the Board of Trustees. Under this plan, if the member dies before the expiration of the specified number of months, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary will receive the benefit only for the remainder of the specified number of months. If the member's designated beneficiary dies before receiving payments for the specified number of months, any remaining payments will be paid to the member's estate.
- (2) A member may elect to receive the special retirement allowance for life but is guaranteed that the sum of the special allowance payments will equal the total of the transferred amount. Under this payment option, if the member dies before receiving the total transferred amount, the special retirement allowance will continue to be paid to the member's designated beneficiary for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's designated beneficiary or the member's estate shall be paid any remaining balance of the transferred amount.

The Board of Trustees shall report annually to the Joint Legislative Commission on Governmental Operations on the number of persons who made an election in the previous calendar year, with any recommendations it might make on amendment or repeal based on any identified problems.

The General Assembly reserves the right to repeal or amend this subsection, but such repeal or amendment shall not affect any person who has already made the one-time election provided in this subsection."

SECTION 3.(b) G.S. 128-27(m2) reads as rewritten:

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a one-time election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance.

A member who became a member of the Supplemental Retirement Income Plan prior to retirement and who remains a member of the Supplemental Retirement Income Plan may make a one-time election to transfer eligible balances, not including any Roth after-tax contributions and the earnings thereon, from any of the following plans to the Supplemental Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement System (i) a plan participating in the North Carolina Public School Teachers' and Professional Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code; (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state; (iv) an individual retirement account or annuity described in section 408(a) or section 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section 403(a) of the Internal Revenue Code.

Notwithstanding anything to the contrary, a member may not transfer such amounts as will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be transferred if a transfer is elected. The member may elect a special retirement allowance with

1 no postretirement increases or a special retirement allowance with annual postretirement
2 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
3 increases on any other allowance will not apply to the special retirement allowance. The Board
4 of Trustees shall provide educational materials to the members who apply for the transfer
5 authorized by this section. Those materials shall describe the special retirement allowance and
6 shall explain (i) the relationship between the transferred balance and the monthly benefit;
7 benefit and (ii) how the member's heirs may be impacted by the election to make this transfer
8 and any costs and fees involved.

9 For the purpose of determining the special retirement allowance, the Board of Trustees shall
10 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
11 and such other tables as may be necessary based upon actual experience. A single set of
12 mortality and such other tables will be used for all members, with factors differing only based
13 on the age of the member and the election of postretirement increases. The Board of Trustees
14 shall modify the mortality and such other tables every five years, as shall be deemed necessary,
15 based upon the five-year experience study as required by G.S. 128-28(o). Provided, however, a
16 member who transfers the member's eligible accumulated contributions from the Supplemental
17 Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred
18 Compensation Plan an eligible retirement plan pursuant to this subsection to this Retirement
19 System shall be taxed for North Carolina State Income Tax purposes on the special retirement
20 allowance the same as if that special retirement allowance had been paid directly by the
21 Supplemental Retirement Income Plan of North Carolina eligible plan or the plan through
22 which the transfer was made, whichever is most favorable to the member. The Local
23 Governmental Employees' Retirement System shall be responsible to determine the taxable
24 amount, if any, and report accordingly.

25 The special retirement allowance shall continue for the life of the member and the
26 beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as
27 provided in G.S. 128-27(g), if any. The Board of Trustees, however, shall establish two
28 payment options that guarantee payments as follows:

- 29 (1) A member may elect to receive the special retirement allowance for life but
30 with payments guaranteed for a number of months to be specified by the
31 Board of Trustees. Under this plan, if the member dies before the expiration
32 of the specified number of months, the special retirement allowance will
33 continue to be paid to the member's designated beneficiary for the life of the
34 beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,
35 the member's designated beneficiary will receive the benefit only for the
36 remainder of the specified number of months. If the member's designated
37 beneficiary dies before receiving payments for the specified number of
38 months, any remaining payments will be paid to the member's estate.
- 39 (2) A member may elect to receive the special retirement allowance for life but
40 is guaranteed that the sum of the special allowance payments will equal the
41 total of the transferred amount. Under this payment option, if the member
42 dies before receiving the total transferred amount, the special retirement
43 allowance will continue to be paid to the member's designated beneficiary
44 for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or
45 6 is not selected, the member's designated beneficiary or the member's estate
46 shall be paid any remaining balance of the transferred amount.

47 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess
48 a one-time flat administrative fee not to exceed the actual cost of the administrative expenses
49 relating to these transfers. An eligible plan shall not assess a fee specifically relating to a
50 transfer of accumulated contributions authorized under this subsection. This provision shall not
51 prohibit other fees that may be assessable under the plan. Each plan, contract, account, or

1 annuity shall fully disclose to any member participating in a transfer under this subsection any
2 surrender charges or other fees, and that disclosure shall be made contemporaneous with the
3 initiation of the transfer by the member.

4 The Board of Trustees shall report annually to the Joint Legislative Commission on
5 Governmental Operations on the number of persons who made an election in the previous
6 calendar year, with any recommendations it might make on amendment or repeal based on any
7 identified problems.

8 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
9 or amendment shall not affect any person who has already made the one-time election provided
10 in this subsection."

11 **SECTION 4.(a)** G.S. 135-1 is amended by adding a new subdivision to read:

12 "(8a) "Consumer Price Index" shall mean the Consumer Price Index for All Urban
13 Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted,
14 standard reference base, as published by the Bureau of Labor Statistics of the
15 U.S. Department of Labor."

16 **SECTION 4.(b)** G.S. 128-21 is amended by adding a new subdivision to read:

17 "(8a) "Consumer Price Index" shall mean the Consumer Price Index for All Urban
18 Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted,
19 standard reference base, as published by the Bureau of Labor Statistics of the
20 U.S. Department of Labor."

21 **SECTION 4.(c)** G.S. 135-53 is amended by adding a new subdivision to read:

22 "(5a) "Consumer Price Index" shall mean the Consumer Price Index for All Urban
23 Consumers (CPI-U), U.S. City Average, all items, not seasonally adjusted,
24 standard reference base, as published by the Bureau of Labor Statistics of the
25 U.S. Department of Labor."

26 **SECTION 4.(d)** G.S. 135-3(8)c. reads as rewritten:

27 "c. Should a beneficiary who retired on an early or service retirement
28 allowance under this Chapter be reemployed by, or otherwise
29 engaged to perform services for, an employer participating in the
30 Retirement System on a part time, temporary, interim, or on a fee for
31 service basis, whether contractual or otherwise, and if such
32 beneficiary earns an amount during the 12 month period immediately
33 following the effective date of retirement or in any calendar year
34 which exceeds fifty percent (50%) of the reported compensation,
35 excluding terminal payments, during the 12 months of service
36 preceding the effective date of retirement, or twenty thousand dollars
37 (\$20,000), whichever is greater, as hereinafter indexed, then the
38 retirement allowance shall be suspended as of the first day of the
39 month following the month in which the reemployment earnings
40 exceed the amount above, for the balance of the calendar year, except
41 when the reemployment earnings exceed the amount above in the
42 month of December, in which case the retirement allowance shall not
43 be suspended. The retirement allowance of the beneficiary shall be
44 reinstated as of January 1 of each year following suspension. The
45 amount that may be earned before suspension shall be increased on
46 January 1 of each year by the ~~ratio of the Consumer Price Index to~~
47 ~~the Index one year earlier, percentage change between the December~~
48 Consumer Price Index in the year prior to retirement and the
49 December Consumer Price Index in the year most recently ended,
50 calculated to the nearest tenth of a percent (1/10 of 1%). (1/10 of 1%),
51 provided that this percentage change is positive."

1 **SECTION 4.(e)** G.S. 128-24(5)c. reads as rewritten:

2 "c. Should a beneficiary who retired on an early or service retirement
3 allowance be reemployed by, or otherwise engaged to perform
4 services for, an employer participating in the Retirement System on a
5 part-time, temporary, interim, or on fee-for-service basis, whether
6 contractual or otherwise, and if such beneficiary earns an amount
7 during the 12-month period immediately following the effective date
8 of retirement or in any calendar year which exceeds fifty percent
9 (50%) of the reported compensation, excluding terminal payments,
10 during the 12 months of service preceding the effective date of
11 retirement, or twenty thousand dollars (\$20,000), whichever is
12 greater, as hereinafter indexed, then the retirement allowance shall be
13 suspended as of the first day of the month following the month in
14 which the reemployment earnings exceed the amount above, for the
15 balance of the calendar year, except when the reemployment earnings
16 exceed the amount above in the month of December, in which case
17 the retirement allowance shall not be suspended. The retirement
18 allowance of the beneficiary shall be reinstated as of January 1 of
19 each year following suspension. The amount that may be earned
20 before suspension shall be increased on January 1 of each year by the
21 ~~ratio of the Consumer Price Index to the Index one year earlier,~~
22 percentage change between the December Consumer Price Index in
23 the year prior to retirement and the December Consumer Price Index
24 in the year most recently ended, calculated to the nearest tenth of a
25 percent ~~(1/10 of 1%)-(1/10 of 1%),~~ provided that this percentage
26 change is positive."

27 **SECTION 4.(f)** G.S. 135-5(e)(1) reads as rewritten:

28 "(1) The Board of Trustees shall determine whether a disability beneficiary is
29 engaged in or is able to engage in a gainful occupation paying more than the
30 difference, as hereinafter indexed, between his disability retirement
31 allowance and the gross compensation earned as an employee during the 12
32 consecutive months of service in the final 48 months prior to retirement
33 producing the highest gross compensation excluding any compensation
34 received on account of termination. If the disability beneficiary is earning or
35 is able to earn more than the difference, the portion of his disability
36 retirement allowance not provided by his contributions shall be reduced to
37 an amount which, together with the portion of the disability retirement
38 allowance provided by his contributions and the amount earnable by him
39 shall equal the amount of his gross compensation prior to retirement. This
40 difference shall be increased on January 1 each year by the ~~ratio of the~~
41 ~~Consumer Price Index to the Index one year earlier,~~ percentage change
42 between the December Consumer Price Index in the year prior to retirement
43 and the December Consumer Price Index in the year most recently ended,
44 calculated to the nearest tenth of one percent ~~(1/10th of 1%)-(1/10 of 1%),~~
45 provided that this percentage change is positive. Should the earning capacity
46 of the disability beneficiary later change, the portion of his disability
47 retirement allowance not provided by his contributions may be further
48 modified. In lieu of the reductions on account of a disability beneficiary
49 earning more than the aforesaid difference, he may elect to convert his
50 disability retirement allowance to a service retirement allowance calculated
51 on the basis of his average final compensation and creditable service at the

time of disability and his age at the time of conversion to service retirement. This election is irrevocable. Provided, the provisions of this subdivision shall not apply to beneficiaries of the Law-Enforcement Officers' Retirement System transferred to this Retirement System who commenced retirement on and before July 1, 1981."

SECTION 4.(g) G.S. 128-27(e)(1) reads as rewritten:

"(1) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, percentage change between the December Consumer Price Index in the year prior to retirement and the December Consumer Price Index in the year most recently ended, calculated to the nearest tenth of a percent ~~(1/10 of 1%)~~. (1/10 of 1%), provided that this percentage change is positive. Should the earning capacity of the disability beneficiary later change, the portion of his disability retirement allowance not provided by his contributions may be further modified. In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid difference, he may elect to convert his disability retirement allowance to a service retirement allowance calculated on the basis of his average final compensation and creditable service at the time of disability retirement and his age at the time of conversion to service retirement. This election is irrevocable.

The provisions of this subdivision shall not apply to beneficiaries of the Law Enforcement Officers' Retirement System transferred to this Retirement System who commenced retirement on and before July 1, 1981."

SECTION 4.(h) G.S. 135-60(d) reads as rewritten:

"(d) The Board of Trustees shall determine whether a disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference, as hereinafter indexed, between his disability retirement allowance and the gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation received on account of termination. If the disability beneficiary is earning or is able to earn more than the difference, the portion of his disability retirement allowance not provided by his contributions shall be reduced to an amount which, together with the portion of the disability retirement allowance provided by his contributions and the amount earnable by him shall equal the amount of his gross compensation prior to retirement. This difference shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, percentage change between the December Consumer Price Index in the year prior to retirement and the December Consumer Price Index in the year most recently ended, calculated to the nearest tenth of one percent ~~(1/10th of 1%)~~. (1/10 of 1%), provided that this percentage change is positive. Should the earning capacity of the disability beneficiary later change, the portion of

1 his disability retirement allowance not provided by his contributions may be further modified.
2 In lieu of the reductions on account of a disability beneficiary earning more than the aforesaid
3 difference, he may elect to convert his disability retirement allowance to a service retirement
4 allowance calculated on the basis of his final compensation and creditable service at the time of
5 disability retirement and his age at the time of conversion to service retirement. This election is
6 irrevocable."

7 **SECTION 5.(a)** G.S. 135-48.1(12) reads as rewritten:

8 "(12) Firefighter. – A member of the group ~~"eligible firemen" as defined in~~
9 ~~G.S. 58-86-25.~~ "eligible firefighter" as defined in G.S. 58-86-2."

10 **SECTION 5.(b)** G.S. 128-27(c) reads as rewritten:

11 "(c) Disability Retirement Benefits. – Upon the application of a member or of his
12 employer, any member who has had five or more years of creditable service may be retired by
13 the Board of Trustees, on the first day of any calendar month, not less than one day nor more
14 than 120 days next following the date of filing such application, on a disability retirement
15 allowance: Provided, that the medical board, after a medical examination of such member, shall
16 certify that such member is mentally or physically incapacitated for the further performance of
17 duty, that such incapacity was incurred at the time of active employment and has been
18 continuous thereafter, that such incapacity is likely to be permanent, and that such member
19 should be retired; Provided further the medical board shall determine if the member is able to
20 engage in gainful employment and, if so, the member may still be retired and the disability
21 retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided
22 further, that the Medical Board shall not certify any member as disabled who:

- 23 (1) Applies for disability retirement based upon a mental or physical incapacity
24 which existed when the member first established membership in the system;
25 or
26 (2) Is in receipt of any payments on account of the same disability which existed
27 when the member first established membership in the system.

28 The Board of Trustees shall require each employee upon enrolling in the retirement system
29 to provide information on the membership application concerning any mental or physical
30 incapacities existing at the time the member enrolls.

31 Notwithstanding the requirement of five or more years of creditable service to the contrary,
32 a member who is a law enforcement officer, an ~~eligible fireman~~ eligible firefighter as defined in
33 ~~G.S. 58-86-25,~~ G.S. 58-86-2, or an eligible rescue squad worker as defined in ~~G.S. 58-86-30~~
34 G.S. 58-86-2, and becomes incapacitated for duty as the natural and proximate result of injuries
35 incurred while in the actual performance of his or her duties, and meets all other requirements
36 for disability retirement benefits, may be retired by the Board of Trustees on a disability
37 retirement allowance.

38 Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement
39 with an early or service retirement benefit has the right, within three years of his retirement, to
40 convert to an allowance with disability retirement benefits without modification of any election
41 of optional allowance previously made; provided, the beneficiary would have met all applicable
42 requirements for disability retirement benefits while still in service as a member. The allowance
43 on account of disability retirement benefits to the beneficiary shall be retroactive to the
44 effective date of early or service retirement.

45 Notwithstanding the foregoing, effective April 1, 1991, the surviving designated
46 beneficiary of a deceased member who met all other requirements for disability retirement
47 benefits, except whose death occurred before the first day of the calendar month in which the
48 member's disability retirement allowance was to be due and payable, may elect to receive the
49 reduced retirement allowance provided by a one hundred percent (100%) joint and survivor
50 payment option in lieu of a return of accumulated contributions, provided the following
51 conditions apply:

- 1 (1) At the time of the member's death, one and only one beneficiary is eligible to
2 receive a return of accumulated contributions, and
3 (2) The member had not instructed the Board of Trustees in writing that he did
4 not wish the provision of this subsection to apply."

5 **SECTION 6.** G.S. 135-53(16) reads as rewritten:

6 "(16) "Retirement" under this Chapter shall mean the commencement of monthly
7 retirement benefits, along with the termination of employment and the
8 complete separation from active service with no intent or agreement,
9 expressed or implied, to return to service. A retirement allowance under the
10 provisions of this Chapter may only be granted upon retirement of a
11 member. In order for a member's retirement to become effective in any
12 month, the member must perform no ~~work, including part-time, temporary,~~
13 ~~substitute, or contractor work, work in a position covered by this Article at~~
14 any time during the same month immediately following the effective first
15 day of retirement."

16 **SECTION 7.** G.S. 120-4.2(c) reads as rewritten:

17 "(c) Solely for purposes of administering the benefits authorized by G.S. 120-3 to
18 120-4.2, the authority and duties created by G.S. 120-4.1 as it existed prior to this repealing act
19 shall continue in ~~effect-effect~~, except that the General Assembly may opt to make annual
20 transfers instead of quarterly transfers of funds to the Department of State Treasurer."

21 **SECTION 8.** G.S. 135-103(b)(2) reads as rewritten:

22 "(b) The participation of any person in the Disability Income Plan shall cease upon:

23 ...

24 (2) The participant's retirement under the provisions of the Teachers' and State
25 Employees' Retirement System or the Optional Retirement Program, or

26"

27 **SECTION 9.** G.S. 143-166.60(e) reads as rewritten:

28 "(e) The insurance benefit of the Plan on account of the death of a participant shall be
29 payable to the surviving spouse of the participant or otherwise to the participant's estate;
30 provided, should a participant instruct the Board of Trustees in writing that ~~he-the participant~~
31 does not wish these benefits to be paid to his or her spouse or estate, then the benefits shall be
32 paid to the person or persons as the participant may name for this purpose. The life insurance
33 benefits shall be payable only on account of participants in the Plan for six or more months or,
34 if an actively employed officer, at any time after employment if death results from an accident.
35 The accident and sickness disability insurance benefits shall be payable to a participant at any
36 time after becoming a participant in the Plan."

37 **SECTION 10.** Section 4 of this act becomes effective January 1, 2015. The
38 remainder of this act becomes effective July 1, 2014.

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013**

H

D

**HOUSE BILL 1194
PROPOSED SENATE COMMITTEE SUBSTITUTE H1194-CSSH-35 [v.2]**

Short Title: Retirement Admin. Changes Act of 2014.

(Public)

Sponsors:

Referred to:

May 22, 2014

A BILL TO BE ENTITLED
AN ACT TO MAKE CHANGES TO ADMINISTRATION OF THE STATE RETIREMENT
SYSTEMS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-5(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the options set forth below. The election of Option 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or until the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or until his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2, 3, or 5 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected Option 2, 3, 5, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option. Except as provided in this section, the member may not change the member's retirement benefit option or the member's designated beneficiary for survivor benefits, if any, after the member has cashed the first retirement check or after the 25th day of the month following the month in which the first check is mailed, whichever comes first.

Option 1.(a) In the Case of a Member Who Retires prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity



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as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

(b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, effective as of the first of the month following the month of initial entitlement, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option.

Upon the death of a member after the effective date of a retirement for which the member has been approved and following receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit shall be payable as provided by the member's election of benefits under this subsection.

Upon the death of a member after the effective date of a retirement for which the member has been approved but prior to the receipt by the Board of Trustees of an election of benefits (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's designated beneficiary for a return of accumulated contributions may elect to receive the benefit, if only one beneficiary is eligible to receive the return of accumulated contributions. If more than one beneficiary is eligible to receive the return of accumulated contributions, the administrator or executor of the member's estate will select an option and name the beneficiary or beneficiaries."

SECTION 1.(b) G.S. 128-27(g) reads as rewritten:

"(g) Election of Optional Allowance. – With the provision that until the first payment on account of any benefit becomes normally due, or his first retirement check has been cashed, any member may elect to receive his benefits in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent of such retirement allowance, including any special retirement allowance, in a reduced allowance payable throughout life under the provisions of one of the Options set forth below. The election of Option 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies prior to the date the first payment becomes normally due or the first retirement check has been cashed. Such election may be revoked by the member prior to the date the first payment becomes normally due or his first retirement check has been cashed. Provided, however, in the event a member has elected Option 2, 3, or 5 and nominated his or her spouse to receive a retirement allowance upon the member's death, and the spouse predeceases the member after the first payment becomes normally due or the first retirement check has been cashed, if the member remarries he or she may request to nominate a new spouse to receive the retirement allowance under the previously elected option, within 90 days of the remarriage, and may nominate a new spouse to receive the retirement allowance under the previously elected option by written designation duly acknowledged and filed with the Board of Trustees within 120 days of the remarriage. The new nomination shall be effective on the first day of the month in which it is made and shall provide for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new nomination. Any member having elected Option 2, 3, 5, or 6 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from his or her spouse, revoke the nomination and elect a new option, effective on the first day of the month in which the new option is elected, providing for a retirement allowance computed to be the actuarial equivalent of the retirement allowance in effect immediately prior to the effective date of the new option. Except as provided in this section, the member may not change the member's retirement benefit option or the member's designated beneficiary for survivor benefits, if any, after the member has cashed the first retirement check or after the 25th day of the month following the month in which the first check is mailed, whichever comes first.

Option one.

- (a) In the Case of a Member Who Retires prior to July 1, 1965. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative.
- (b) In the Case of a Member Who Retires on or after July 1, 1965, but prior to July 1, 1993. – If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less one one-hundred-twentieth thereof for each month for which he has received a retirement allowance payment, shall be paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees or, if none, to his legal representative; or

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written

1 designation duly acknowledged and filed with the Board of Trustees at the time of his
2 retirement; or

3 Option four. Adjustment of Retirement Allowance for Social Security Benefits. – Until the
4 first payment on account of any benefit becomes normally due, any member may elect to
5 convert his benefit otherwise payable on his account after retirement into a retirement
6 allowance of equivalent actuarial value of such amount that with his benefit under Title II of
7 the Federal Social Security Act, he will receive, so far as possible, approximately the same
8 amount per year before and after the earliest age at which he becomes eligible, effective as of
9 the first of the month following the month of initial entitlement, upon application therefor, to
10 receive a social security benefit.

11 Option five. For Members Retiring prior to July 1, 1993. – The member may elect to
12 receive a reduced retirement allowance under the conditions of Option two or Option three, as
13 provided for above, with the modification that if both he and the person nominated die within
14 10 years from his retirement date, an amount equal to his accumulated contributions at
15 retirement, less 1/120th thereof for each month for which a retirement allowance has been paid,
16 shall be paid to his legal representatives or to such person as he shall nominate by written
17 designation duly acknowledged and filed with the Board of Trustees.

18 Option six. A member may elect either Option two or Option three with the added provision
19 that in the event the designated beneficiary predeceases the member, the retirement allowance
20 payable to the member after the designated beneficiary's death shall be equal to the retirement
21 allowance which would have been payable had the member not elected the option.

22 Upon the death of a member after the effective date of a retirement for which the member
23 has been approved and following receipt by the Board of Trustees of an election of benefits
24 (Form 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit
25 shall be payable as provided by the member's election of benefits under this subsection.

26 Upon the death of a member after the effective date of a retirement for which the member
27 has been approved but prior to the receipt by the Board of Trustees of an election of benefits
28 (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's
29 designated beneficiary for a return of accumulated contributions may elect to receive the
30 benefit, if only one beneficiary is eligible to receive the return of accumulated contributions. If
31 more than one beneficiary is eligible to receive the return of accumulated contributions, the
32 administrator or executor of the member's estate will select an option and name the beneficiary
33 or beneficiaries."

34 **SECTION 2.(a)** G.S. 135-8(f) reads as rewritten:

35 "(f) Collection of Contributions. –

36 (1) The collection of members' contributions shall be as follows:

37 a. Each employer shall cause to be deducted on each and every payroll
38 of a member for each and every payroll subsequent to the date of
39 establishment of the Retirement System the contributions payable by
40 such member as provided in this Chapter, and the employer shall
41 draw his warrant for the amount so deducted, payable to the
42 Teachers' and State Employees' Retirement System of North
43 Carolina, and shall transmit the same, together with schedule of the
44 contributions, on such forms as prescribed.

45 (2) The collection of employers' contributions shall be made as follows:

46 a. Upon the basis of each actuarial valuation provided herein there shall
47 be prepared biennially and certified to the Department of
48 Administration a statement of the total amount necessary for the
49 ensuing biennium to the pension accumulation and expense funds, as
50 provided under subsections (d) and (f) of this section, and these funds

- 1 shall be handled and disbursed in accordance with the State Budget
2 Act, Chapter 143C of the General Statutes.
- 3 b. Until the first valuation has been made and the rates computed as
4 provided in subsection (d) of this section, the amount payable by
5 employers on account of the normal and accrued liability
6 contributions shall be five and fifty-one one-hundredths percent
7 (5.51%) of the payroll of all teachers and three and sixteen
8 one-hundredths percent (3.16%) for other State employees.
- 9 c. Repealed by Session Laws 1993, c. 257, s. 13.
- 10 d. Each board of education in each county and each board of education
11 in each city in which teachers or other employees of the schools
12 receive compensation for services in the public schools from sources
13 other than the appropriation of the State of North Carolina shall pay
14 the Board of Trustees of the State Retirement System such rate of
15 their respective salaries as are paid those of other employees.
- 16 e. Each employer shall transmit monthly to the State Retirement
17 System on account of each employee, who is a member of this
18 System, an amount sufficient to cover the normal contribution and
19 the accrued liability contribution of each member employed by such
20 employer for the preceding month.
- 21 (3) In the event the employee or employer contributions required under this
22 section are not received by the date set by the Board of Trustees, the Board
23 shall assess the employer with a ~~penalty~~penalty, in lieu of interest, of 1% per
24 month with a minimum penalty of twenty-five dollars (\$25.00). The Board
25 may waive one penalty per employer every five years if the Board finds that
26 the employer has consistently demonstrated good-faith efforts to comply
27 with the set deadline. If within 90 days after request therefor by the Board
28 any employer shall not have provided the System with the records and other
29 information required hereunder or if the full accrued amount of the
30 contributions provided for under this section due from members employed
31 by an employer or from an employer other than the State shall not have been
32 received by the System from the chief fiscal officer of such employer within
33 30 days after the last due date as herein provided, then, notwithstanding
34 anything herein or in the provisions of any other law to the contrary, upon
35 notification by the Board to the State Treasurer as to the default of such
36 employer as herein provided, any distributions which might otherwise be
37 made to such employer from any funds of the State shall be withheld from
38 such employer until notice from the Board to the State Treasurer that such
39 employer is no longer in default."

40 **SECTION 2.(b) G.S. 128-30(g) reads as rewritten:**

41 **"(g) Collection of Contributions. –**

42 **(1) The collection of members' contributions shall be as follows:**

- 43 a. Each employer shall cause to be deducted on each and every payroll
44 of a member for each and every payroll subsequent to the date of
45 participation in the Retirement System the contributions payable by
46 such member as provided in this Article. Each employer shall certify
47 to the treasurer of said employer on each and every payroll a
48 statement as vouchers for the amount so deducted.
- 49 b. The treasurer of each employer on the authority from the employer
50 shall make deductions from salaries of members as provided in this
51 Article and shall transmit monthly, or at such time as the Board of

Trustees shall designate, the amount specified to be deducted, to the secretary-treasurer of the Board of Trustees. The secretary-treasurer of the Board of Trustees after making a record of all such receipts shall deposit them in a bank or banks selected by said Board of Trustees for use according to the provisions of this Article.

(2) The collections of employers' contributions shall be made as follows: Upon the basis of each actuarial valuation provided herein the Board of Trustees shall annually prepare and certify to each employer a statement of the total amount necessary for the ensuing fiscal year to the pension accumulation fund as provided under subsection (d) of this section. Such employer contributions shall be transmitted to the secretary-treasurer of the Board of Trustees together with the employee deductions as provided under sub-subdivision b. of subdivision (1) of this subsection.

(3) In the event the employee or employer contributions required under this section are not received by the date set by the Board of Trustees, the Board shall assess the employer with a ~~penalty~~penalty, in lieu of interest, of 1% per month with a minimum penalty of twenty-five dollars (\$25.00). The Board may waive one penalty per employer every five years if the Board finds that the employer has consistently demonstrated good-faith efforts to comply with the set deadline. If within 90 days after request therefor by the Board any employer shall not have provided the System with the records and other information required hereunder or if the full accrued amount of the contributions provided for under this section due from members employed by an employer or from an employer shall not have been received by the System from the chief fiscal officer of such employer within 30 days after the last due date as herein provided, then, notwithstanding anything herein or in the provisions of any other law to the contrary, upon notification by the Board to the State Treasurer as to the default of such employer as herein provided, any distributions which might otherwise be made to such employer, or the municipality or county of which such employer is an integral part, from any funds of the State or any funds collected by the State shall be withheld from such employer until notice from the Board to the State Treasurer that such employer is no longer in default."

SECTION 3.(a) G.S. 135-5(l) reads as rewritten:

"(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by electronic submission prior to completing 10 years of service in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) The compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of

1 service ending on the last day of the month preceding the month in which his
2 last day of actual service occurs;
3 (3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.
4 subject to a minimum of twenty-five thousand dollars (\$25,000) and to a maximum of fifty
5 thousand dollars (\$50,000). Such death benefit shall be payable apart and separate from the
6 payment of the member's accumulated contributions under the System on his death pursuant to
7 the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be
8 deemed to be in service at the date of his death if his death occurs within 180 days from the last
9 day of his actual service.

10 The death benefit provided in this subsection (l) shall not be payable, notwithstanding the
11 member's compliance with all the conditions set forth in the preceding paragraph, if his death
12 occurs

- 13 (1) After December 31, 1968 and after he has attained age 70; or
- 14 (2) After December 31, 1969 and after he has attained age 69; or
- 15 (3) After December 31, 1970 and after he has attained age 68; or
- 16 (4) After December 31, 1971 and after he has attained age 67; or
- 17 (5) After December 31, 1972 and after he has attained age 66; or
- 18 (6) After December 31, 1973 and after he has attained age 65; or
- 19 (7) After December 31, 1978, but before January 1, 1987, and after he has
20 attained age 70.

21 Notwithstanding the above provisions, the death benefit shall be payable on account of the
22 death of any member who died or dies on or after January 1, 1974, but before January 1, 1979,
23 after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained
24 age 66, was at the time of death completing the work year for those individuals under specific
25 contract, or during the fiscal year for those individuals not under specific contract, in which he
26 or she attained 65, and otherwise met all conditions for payment of the death benefit.

27 Notwithstanding the above provisions, the Board of Trustees may and is specifically
28 authorized to provide the death benefit according to the terms and conditions otherwise
29 appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or
30 contracts of group life insurance with any life insurance company or companies licensed and
31 authorized to transact business in this State for the purpose of insuring the lives of members in
32 service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the
33 Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of
34 Trustees is authorized, empowered and directed to investigate the desirability of utilizing group
35 life insurance by either of the foregoing methods for the purpose of providing the death benefit.
36 If a separate trust fund is established, it shall be operated in accordance with rules and
37 regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall
38 be credited to such fund.

39 In administration of the death benefit the following shall apply:

- 40 (1) For the purpose of determining eligibility only, in this subsection "calendar
41 year" shall mean any period of 12 consecutive months or, if less, the period
42 covered by an annual contract of employment. For all other purposes in this
43 subsection "calendar year" shall mean the 12 months beginning January 1
44 and ending December 31.
- 45 (2) Last day of actual service shall be:
 - 46 a. When employment has been terminated, the last day the member
47 actually worked.
 - 48 b. When employment has not been terminated, the date on which an
49 absent member's sick and annual leave expire, unless he is on
50 approved leave of absence and is in service under the provisions of
51 G.S. 135-4(h).

c. When a participant's employment is interrupted by reason of service in the Uniformed Services, as that term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353, and the participant does not return immediately after that service to employment with a covered employer in this System, the date on which the participant was first eligible to be separated or released from his or her involuntary military service.

(3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h).

(4) A member on leave of absence from his position as a teacher or State employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a teacher or State employee during the 12-month period immediately prior to the month in which death occurred, not to be less than twenty-five thousand dollars (\$25,000) nor to exceed fifty thousand dollars (\$50,000).

The provisions of the Retirement System pertaining to Administration, G.S. 135-6, and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

A member who is a beneficiary of the Disability Income Plan provided for in Article 6 of this Chapter, or a member who is in receipt of Workers' Compensation during the period for which he or she would have otherwise been eligible to receive short-term benefits or extended short-term benefits as provided in G.S. 135-105 and dies on or after 181 days from the last day of his or her actual service but prior to the date the benefits as provided in G.S. 135-105 would have ended, shall be eligible for group life insurance benefits as provided in this subsection, notwithstanding that the member is no longer an employee or teacher or that the member's death occurs after the eligibility period after active service. The basis of the death benefit payable hereunder shall be the higher of the death benefit computed as above or a death benefit based on compensation used in computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability increases, all subject to the maximum dollar limitation as provided above. A member in receipt of benefits from the Disability Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued under the former Disability Salary Continuation Plan shall not be covered under the provisions of this paragraph.

Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion of twenty-four months of contributions required under this subsection. Should death occur before the completion of twenty-four months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be

1 paid the sum of the retired member's contributions required by this subsection plus interest to
2 be determined by the Board of Trustees.

3 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
4 subsection, of the death of a retired member of the Retirement System on or after January 1,
5 1999, but before July 1, 2004, there shall be paid a death benefit to the surviving spouse of the
6 deceased retired member or to the deceased retired member's legal representative if not
7 survived by a spouse; provided the retired member has elected, when first eligible, to make, and
8 has continuously made, in advance of his death required contributions as determined by the
9 Board of Trustees on a fully contributory basis, through retirement allowance deductions or
10 other methods adopted by the Board of Trustees, to a group death benefit trust fund
11 administered by the Board of Trustees separate and apart from the Retirement System's
12 Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum
13 payment in the amount of six thousand dollars (\$6,000) upon the completion of 24 months of
14 contributions required under this subsection. Should death occur before the completion of 24
15 months of contributions required under this subsection, the deceased retired member's surviving
16 spouse or legal representative if not survived by a spouse shall be paid the sum of the retired
17 member's contributions required by this subsection plus interest to be determined by the Board
18 of Trustees.

19 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
20 subsection, of the death of a retired member of the Retirement System on or after July 1, 2004,
21 but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of the
22 deceased retired member or to the deceased retired member's legal representative if not
23 survived by a spouse; provided the retired member has elected, when first eligible, to make, and
24 has continuously made, in advance of his death required contributions as determined by the
25 Board of Trustees on a fully contributory basis, through retirement allowance deductions or
26 other methods adopted by the Board of Trustees, to a group death benefit trust fund
27 administered by the Board of Trustees Fund and Pension Accumulation Fund. This death
28 benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the
29 completion of 24 months of contributions required under this subsection. Should death occur
30 before the completion of 24 months of contributions required under this subsection, the
31 deceased retired member's surviving spouse or legal representative if not survived by a spouse
32 shall be paid the sum of the retired member's contributions required by this subsection plus
33 interest to be determined by the Board of Trustees.

34 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
35 subsection, of the death of a retired member of the Retirement System on or after July 1, 2007,
36 but before January 1, 2015, there shall be paid a death benefit to the surviving spouse of the
37 deceased retired member or to the deceased retired member's legal representative if not
38 survived by a spouse; provided the retired member has elected, when first eligible, to make, and
39 has continuously made, in advance of his death required contributions as determined by the
40 Board of Trustees on a fully contributory basis, through retirement allowance deductions or
41 other methods adopted by the Board of Trustees, to a group death benefit trust fund
42 administered by the Board of Trustees Fund and Pension Accumulation Fund. This death
43 benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the
44 completion of 24 months of contributions required under this subsection. Should death occur
45 before the completion of 24 months of contributions required under this subsection, the
46 deceased retired member's surviving spouse or legal representative if not survived by a spouse
47 shall be paid the sum of the retired member's contributions required by this subsection plus
48 interest to be determined by the Board of Trustees.

49 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this
50 subsection, of the death of a retired member of the Retirement System on or after January 1,
51 2015, there shall be paid a death benefit to the person or persons designated by the member or,

1 if the member has not designated a beneficiary, to the surviving spouse of the deceased retired
2 member or, if not survived by a designated beneficiary or spouse, to the deceased retired
3 member's legal representative; provided the retired member has elected, when first eligible, to
4 make, and has continuously made, in advance of his death, required contributions as
5 determined by the Board of Trustees on a fully contributory basis, through retirement
6 allowance deductions or other methods adopted by the Board of Trustees, to a group death
7 benefit trust fund administered by the Board of Trustees Fund and Pension Accumulation Fund.
8 This death benefit shall be a lump-sum payment in the amount of ten thousand dollars
9 (\$10,000) upon the completion of 24 months of contributions required under this subsection.
10 Should death occur before the completion of 24 months of contributions required under this
11 subsection, the deceased retired member's designated beneficiary or beneficiaries, or surviving
12 spouse if there is no surviving beneficiary, or legal representative if not survived by a
13 designated beneficiary or spouse, shall be paid the sum of the retired member's contributions
14 required by this subsection plus interest to be determined by the Board of Trustees."

15 **SECTION 3.(b) G.S. 135-64(i) reads as rewritten:**

16 "(i) Upon the death of a retired member on or after July 1, 2004, but before July 1, 2007,
17 there shall be paid a death benefit to the surviving spouse of a deceased retired member or to
18 the deceased retired member's legal representative if not survived by a spouse; provided the
19 retired member has elected, when first eligible, to make, and has continuously made, in
20 advance of his death required contributions as determined by the Board of Trustees on a fully
21 contributory basis, through retirement allowance deductions or other methods adopted by the
22 Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees
23 separate and apart from the Retirement System's Annuity Savings Fund and Pension
24 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine
25 thousand dollars (\$9,000) upon the completion of 24 months of contributions required under
26 this subsection. Should death occur before the completion of 24 months of contributions
27 required under this subsection, the deceased retired member's surviving spouse or legal
28 representative if not survived by a spouse shall be paid the sum of the retired member's
29 contributions required by this subsection plus interest to be determined by the Board of
30 Trustees.

31 ~~Upon the death of a retired member on or after July 1, 2007, there shall be paid a death~~
32 ~~benefit to the surviving spouse of a deceased retired member or to the deceased retired~~
33 ~~member's legal representative if not survived by a spouse; provided the retired member has~~
34 ~~elected, when first eligible, to make, and has continuously made, in advance of his death~~
35 ~~required contributions as determined by the Board of Trustees on a fully contributory basis,~~
36 ~~through retirement allowance deductions or other methods adopted by the Board of Trustees, to~~
37 ~~a group death benefit trust fund administered by the Board of Trustees separate and apart from~~
38 ~~the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death~~
39 ~~benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the~~
40 ~~completion of 24 months of contributions required under this subsection. Should death occur~~
41 ~~before the completion of 24 months of contributions required under this subsection, the~~
42 ~~deceased retired member's surviving spouse or legal representative if not survived by a spouse~~
43 ~~shall be paid the sum of the retired member's contributions required by this subsection plus~~
44 ~~interest to be determined by the Board of Trustees."~~

45 **SECTION 3.(c) G.S. 135-64 is amended by adding two new subsections to read:**

46 "(j) Upon the death of a retired member on or after July 1, 2007, but before January 1,
47 2015, there shall be paid a death benefit to the surviving spouse of a deceased retired member
48 or to the deceased retired member's legal representative if not survived by a spouse; provided
49 the retired member has elected, when first eligible, to make, and has continuously made, in
50 advance of his death, required contributions as determined by the Board of Trustees on a fully
51 contributory basis, through retirement allowance deductions or other methods adopted by the

1 Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees
2 separate and apart from the Retirement System's Annuity Savings Fund and Pension
3 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten
4 thousand dollars (\$10,000) upon the completion of 24 months of contributions required under
5 this subsection. Should death occur before the completion of 24 months of contributions
6 required under this subsection, the deceased retired member's surviving spouse or legal
7 representative if not survived by a spouse shall be paid the sum of the retired member's
8 contributions required by this subsection plus interest to be determined by the Board of
9 Trustees.

10 (k) Upon the death of a retired member on or after January 1, 2015, there shall be paid a
11 death benefit to the person or persons designated by the member or, if the member has not
12 designated a beneficiary, to the surviving spouse of the deceased retired member or, if not
13 survived by a designated beneficiary or spouse, to the deceased retired member's legal
14 representative; provided the retired member has elected, when first eligible, to make, and has
15 continuously made, in advance of his death, required contributions as determined by the Board
16 of Trustees on a fully contributory basis, through retirement allowance deductions or other
17 methods adopted by the Board of Trustees, to a group death benefit trust fund administered by
18 the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund
19 and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the
20 amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions
21 required under this subsection. Should death occur before the completion of 24 months of
22 contributions required under this subsection, the deceased retired member's designated
23 beneficiary or beneficiaries, or surviving spouse if there is no surviving designated beneficiary,
24 or legal representative if not survived by a designated beneficiary or spouse, shall be paid the
25 sum of the retired member's contributions required by this subsection plus interest to be
26 determined by the Board of Trustees."

27 SECTION 3.(d) G.S. 120-4.27 reads as rewritten:

28 **"§ 120-4.27. Death benefit.**

29 The designated beneficiary of a member who dies while in service after completing one
30 year of creditable service shall receive a lump-sum payment of an amount equal to the deceased
31 member's highest annual salary, to a maximum of fifteen thousand dollars (\$15,000). For
32 purposes of this death benefit "in service" means currently serving as a member of the North
33 Carolina General Assembly. "In service" also means service in the Uniformed Services, as that
34 term is defined in section 4303(16) of the Uniformed Services Employment and Reemployment
35 Rights Act, Public Law 103-353, if that service begins during the member's term of office. If
36 the participant does not return immediately after that service to employment with a covered
37 employer in this System, then the participant shall be deemed "in service" until the date on
38 which the participant was first eligible to be separated or released from his or her involuntary
39 military service.

40 The death benefit provided by this section shall be designated a group life insurance benefit
41 payable under an employee welfare benefit plan that is separate and apart from the Retirement
42 System but under which the members of the Retirement System shall participate and be eligible
43 for group life insurance benefits. The Board of Trustees is authorized to provide the death
44 benefit in the form of group life insurance either by purchasing a contract or contracts of group
45 life insurance with any life insurance company or companies licensed and authorized to
46 transact business in the State of North Carolina for the purpose of insuring the lives of qualified
47 members in service, or by establishing or affiliating with a separate trust fund qualified under
48 Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

49 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired
50 member of the Retirement System or Retirement Fund on or after July 1, 1988, but before
51 January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired

1 member, or to the deceased retired member's legal representative if not survived by a spouse;
2 provided the retired member has elected, when first eligible, to make, and has continuously
3 made, in advance of his death required contributions as determined by the Retirement System
4 on a fully contributory basis, through retirement allowance deductions or other methods
5 adopted by the Retirement System, to a group death benefit trust fund administered by the
6 Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and
7 Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of
8 five thousand dollars (\$5,000) upon the completion of twenty-four months of contributions
9 required under this subsection. Should death occur before the completion of twenty-four
10 months of contributions required under this subsection, the deceased retired member's surviving
11 spouse or legal representative if not survived by a spouse shall be paid the sum of the retired
12 member's contributions required by this subsection plus interest to be determined by the Board
13 of Trustees.

14 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired
15 member of the Retirement System or Retirement Fund on or after January 1, 1999, but before
16 July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased retired
17 member, or to the deceased retired member's legal representative if not survived by a spouse;
18 provided the retired member has elected, when first eligible, to make, and has continuously
19 made, in advance of his death required contributions as determined by the Retirement System
20 on a fully contributory basis, through retirement allowance deductions or other methods
21 adopted by the Retirement System, to a group death benefit trust fund administered by the
22 Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and
23 Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of
24 six thousand dollars (\$6,000) upon the completion of 24 months of contributions required under
25 this subsection. Should death occur before the completion of 24 months of contributions
26 required under this subsection, the deceased retired member's surviving spouse or legal
27 representative if not survived by a spouse shall be paid the sum of the retired member's
28 contributions required by this subsection plus interest to be determined by the Board of
29 Trustees.

30 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired
31 member of the Retirement System or Retirement Fund on or after July 1, 2004, but before July
32 1, 2007, there shall be paid a death benefit to the surviving spouse of a deceased retired
33 member, or to the deceased retired member's legal representative if not survived by a spouse;
34 provided the retired member has elected, when first eligible, to make, and has continuously
35 made, in advance of his death required contributions as determined by the Retirement System
36 on a fully contributory basis, through retirement allowance deductions or other methods
37 adopted by the Retirement System, to a group death benefit trust fund administered by the
38 Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and
39 Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of
40 nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required
41 under this subsection. Should death occur before the completion of 24 months of contributions
42 required under this subsection, the deceased retired member's surviving spouse or legal
43 representative if not survived by a spouse shall be paid the sum of the retired member's
44 contributions required by this subsection plus interest to be determined by the Board of
45 Trustees.

46 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired
47 member of the Retirement System or Retirement Fund on or after July 1, 2007, but before
48 January 1, 2015, there shall be paid a death benefit to the surviving spouse of a deceased retired
49 member, or to the deceased retired member's legal representative if not survived by a spouse;
50 provided the retired member has elected, when first eligible, to make, and has continuously
51 made, in advance of his death required contributions as determined by the Retirement System

on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired member of the Retirement System or Retirement Fund on or after January 1, 2015, there shall be paid a death benefit to the person or persons designated by the member or, if the member has not designated a beneficiary, to the surviving spouse of the deceased retired member or, if not survived by a designated beneficiary or spouse, to the deceased retired member's legal representative; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death, required contributions as determined by the Retirement System on a fully contributory basis, through retirement allowance deductions or other methods adopted by the Retirement System, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's designated beneficiary or beneficiaries, or surviving spouse if not survived by a designated beneficiary, or legal representative if not survived by a designated beneficiary or spouse, shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 3.(e) G.S. 128-27(14) reads as rewritten:

"(14) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2004, but before July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees.

~~Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2007, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death required contributions as determined by the Board of Trustees on a fully~~

~~contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."~~

SECTION 3.(f) G.S. 128-27 is amended by adding two new subsections to read:

"(15) Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after July 1, 2007, but before January 1, 2015, there shall be paid a death benefit to the surviving spouse of the deceased retired member or to the deceased retired member's legal representative if not survived by a spouse; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death, required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's surviving spouse or legal representative if not survived by a spouse shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

"(16) Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this subsection, of the death of a retired member of the Retirement System on or after January 1, 2015, there shall be paid a death benefit to the person or persons designated by the member or, if the member has not designated a beneficiary, to the surviving spouse of the deceased retired member or, if not survived by a designated beneficiary or spouse, to the deceased retired member's legal representative; provided the retired member has elected, when first eligible, to make, and has continuously made, in advance of his death, required contributions as determined by the Board of Trustees on a fully contributory basis through retirement allowance deductions or other methods adopted by the Board of Trustees, to a group death benefit trust fund administered by the Board of Trustees separate and apart from the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of ten thousand dollars (\$10,000) upon the completion of 24 months of contributions required under this subsection. Should death occur before the completion of 24 months of contributions required under this subsection, the deceased retired member's designated beneficiary or beneficiaries, or surviving spouse if not survived by a designated beneficiary, or legal representative if not survived by a designated beneficiary or spouse, shall be paid the sum of the retired member's contributions required by this subsection plus interest to be determined by the Board of Trustees."

SECTION 4.(a) G.S.135-6(i) reads as rewritten:

"(i) Record of Proceedings; Annual Report. – The Board of Trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System for the preceding year, the amount of the accumulated cash and securities of the System, and the last balance sheet showing the financial condition of the System by means of an actuarial valuation of the assets

1 and liabilities of the Retirement System. It shall also publish annually a report on supplemental
2 insurance offerings that are made available to retirees and the extent to which retirees
3 participate in those offerings."

4 **SECTION 4.(b)** G.S. 128-28(j) reads as rewritten:

5 "(j) Record of Proceedings; Annual Report. – The Board of Trustees shall keep a record
6 of all of its proceedings which shall be open to public inspection. It shall publish annually a
7 report showing the fiscal transactions of the Retirement System for the preceding year, the
8 amount of the accumulated cash and securities of the System, and the last balance sheet
9 showing the financial condition of the System by means of an actuarial valuation of the assets
10 and liabilities of the Retirement System. It shall also publish annually a report on supplemental
11 insurance offerings that are made available to retirees and the extent to which retirees
12 participate in those offerings."

13 **SECTION 5.(a)** G.S. 135-9 reads as rewritten:

14 **"§ 135-9. Exemption from garnishment, attachment, etc.**

15 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
16 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
17 person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
18 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
19 or accruing to any person under the provisions of this Chapter, and the moneys in the various
20 funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any
21 other process whatsoever, and shall be unassignable except as in this Chapter specifically
22 otherwise provided. Application for System approval of a domestic relations order dividing a
23 person's interest under the Retirement System shall be accompanied by an order consistent with
24 the system-designed template order provided on the System's Web site. For orders entered on
25 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic
26 relations order shall be limited to the lifetime of that former spouse and, upon the death of that
27 former spouse, the former spouse's share shall revert to the member. Notwithstanding any
28 provisions to the contrary, any overpayment of benefits to a member in a State-administered
29 retirement system or the former Disability Salary Continuation Plan or the Disability Income
30 Plan of North Carolina ~~Carolina~~, including any benefits paid to, or State Health Plan premiums
31 paid on behalf of, any member or beneficiary who is later determined to have been ineligible
32 for those benefits, may be offset against any retirement allowance, return of contributions or
33 any other right accruing under this Chapter to the same person, the person's estate, or
34 designated beneficiary."

35 **SECTION 5.(b)** G.S. 128-31 reads as rewritten:

36 **"§ 128-31. Exemptions from execution.**

37 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq.,
38 and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a
39 person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
40 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued
41 or accruing to any person under the provisions of this Article, and the moneys in the various
42 funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any
43 other process whatsoever, and shall be unassignable except as in this Article specifically
44 otherwise provided. Application for System approval of a domestic relations order dividing a
45 person's interest under the Retirement System shall be accompanied by an order consistent with
46 the system-designed template order provided on the System's Web site. For orders entered on
47 or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic
48 relations order shall be limited to the lifetime of that former spouse and, upon the death of that
49 former spouse, the former spouse's share shall revert to the member. Notwithstanding any
50 provisions to the contrary, any overpayment of benefits to a member in a State-administered
51 retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of

1 North Carolina ~~Carolina~~, including any benefits paid to, or State Health Plan premiums paid on
2 behalf of, any member who is later determined to have been ineligible for those benefits, may
3 be offset against any retirement allowance, return of contributions or any other right accruing
4 under this Chapter to the same person, the person's estate, or designated beneficiary."

5 **SECTION 6.(a)** G.S. 135-6 is amended by adding a new subsection to read:

6 "(t) Immunity. – A person serving on the Teachers' and State Employees' Retirement
7 System Board of Trustees shall be immune individually from civil liability for monetary
8 damages, except to the extent covered by insurance, for any act or failure to act arising out of
9 that service, except where any of the following apply:

10 (1) The person was not acting within the scope of that person's official duties.

11 (2) The person was not acting in good faith.

12 (3) The person committed gross negligence or willful or wanton misconduct that
13 resulted in the damages or injury.

14 (4) The person derived an improper personal financial benefit, either directly or
15 indirectly, from the transaction.

16 (5) The person incurred the liability from the operation of a motor vehicle."

17 **SECTION 6.(b)** G.S. 128-27 is amended by adding a new subsection to read:

18 "(u) Immunity. – A person serving on the Local Governmental Employees' Retirement
19 System Board of Trustees shall be immune individually from civil liability for monetary
20 damages, except to the extent covered by insurance, for any act or failure to act arising out of
21 that service, except where any of the following apply:

22 (1) The person was not acting within the scope of that person's official duties.

23 (2) The person was not acting in good faith.

24 (3) The person committed gross negligence or willful or wanton misconduct that
25 resulted in the damages or injury.

26 (4) The person derived an improper personal financial benefit, either directly or
27 indirectly, from the transaction.

28 (5) The person incurred the liability from the operation of a motor vehicle."

29 **SECTION 7.** G.S. 128-27(a)(1) reads as rewritten:

30 "(1) Any member may retire upon electronic submission or written application to
31 the Board of Trustees setting forth at what time, as of the first day of a
32 calendar month, not less than one day nor more than 120 days subsequent to
33 the execution and filing thereof, he desires to be retired: Provided, that the
34 said member at the time so specified for his retirement shall have attained
35 the age of 60 years and have at least five years of creditable service or shall
36 have completed 30 years of creditable service, or if a ~~fireman, firefighter or~~
37 rescue squad worker, he shall have attained the age of 55 years and have at
38 least five years of creditable service."

39 **SECTION 8.** Sections 1 and 3 of this act become effective January 1, 2015.

40 Sections 2, 4, 5, and 6 of this act become effective October 1, 2014. The remainder of this act
41 becomes effective September 1, 2014.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1195

Short Title: Fiscal Integrity/Pension-Spiking Prevention. (Public)

Sponsors: Representatives Collins and S. Ross (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: State Personnel, if favorable, Appropriations.

May 22, 2014

A BILL TO BE ENTITLED

AN ACT TO ENACT ANTI-PENSION-SPIKING LEGISLATION BY ESTABLISHING A CONTRIBUTION-BASED BENEFIT CAP, TO ALLOW MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM WHO LEAVE EMPLOYMENT WITHIN FIVE YEARS TO RECEIVE A RETURN OF THEIR CONTRIBUTIONS WITH ACCUMULATED INTEREST, AND TO RETURN TO A FIVE-YEAR VESTING PERIOD FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM WHO BECAME MEMBERS ON OR AFTER AUGUST 1, 2011, AND MAKE A CONFORMING CHANGE TO THE SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other provision of this section, every service retirement allowance provided under this section for members who retire on or after January 1, 2015, is subject to adjustment pursuant to a contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a contribution-based benefit cap factor recommended by the actuary, based upon actual experience, such that no more than three-quarters of one percent (0.75%) of retirement allowances are expected to be capped. The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n). Prior to establishing a service retirement allowance under this section, the Board shall:

- (1) Determine an amount equal to the member's accumulated contributions as required under G.S. 135-8(b)(1) for all years during which the member earned membership service used in the calculation of the retirement allowance that the member would receive under this section.
- (2) Determine the amount of a single life annuity that is the actuarial equivalent of the amount determined under subdivision (1) of this subsection, adjusted for the age of the member at the time of retirement or, when appropriate, the age at the time of the member's death.
- (3) Multiply the annuity amount determined under subdivision (2) of this subsection by the contribution-based benefit cap factor.



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- (4) Determine the amount of the retirement allowance that results from the member's membership service.

The product of the multiplication in subdivision (3) of this subsection is the member's contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection exceeds the member's contribution-based benefit cap, the member's retirement allowance shall be reduced by an amount equal to the difference between the contribution-based benefit cap and the amount determined under subdivision (4) of this subsection.

Notwithstanding the foregoing, the retirement allowance of a member with an average final compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall not be subject to the contribution-based benefit cap. The minimum average final compensation necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be increased on January 1 each year by the percent change between the December Consumer Price Index in the year prior to retirement and the December Consumer Price Index in the year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that this percent change is positive.

Notwithstanding the foregoing, the retirement allowance of a member who became a member before January 1, 2015, or who has not earned at least five years of membership service in the Retirement System after January 1, 2015, shall not be reduced; however, the member's last employer shall be required to make an additional contribution as specified in G.S. 135-8(f)(2)f., if applicable."

SECTION 1.(b) G.S. 128-27 is amended by adding a new section to read:

"(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other provision of this section, every service retirement allowance provided under this section for members who retire on or after January 1, 2015, is subject to adjustment pursuant to a contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a contribution-based benefit cap factor recommended by the actuary, based upon actual experience, such that no more than three-quarters of one percent (0.75%) of retirement allowances are expected to be capped. The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five-year experience study as required by G.S. 128-28(o).

Prior to establishing a service retirement allowance under this section, the Board shall:

- (1) Determine an amount equal to the member's accumulated contributions as required under G.S. 128-30(b)(1) for all years during which the member earned membership service used in the calculation of the retirement allowance that the member would receive under this section.
- (2) Determine the amount of a single life annuity that is the actuarial equivalent of the amount determined under subdivision (1) of this subsection, adjusted for the age of the member at the time of retirement or, when appropriate, the age at the time of the member's death.
- (3) Multiply the annuity amount determined under subdivision (2) of this subsection by the contribution-based benefit cap factor.
- (4) Determine the amount of the retirement allowance that results from the member's membership service.

The product of the multiplication in subdivision (3) of this subsection is the member's contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection exceeds the member's contribution-based benefit cap, the member's retirement allowance shall be reduced by an amount equal to the difference between the contribution-based benefit cap and the amount determined under subdivision (4) of this subsection.

Notwithstanding the foregoing, the retirement allowance of a member with an average final compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall not be subject to the contribution-based benefit cap. The minimum average final

1 compensation necessary for a retirement allowance to be subject to the contribution-based
2 benefit cap shall be increased on January 1 each year by the percent change between the
3 December Consumer Price Index in the year prior to retirement and the December Consumer
4 Price Index in the year most recently ended, calculated to the nearest tenth of a percent (0.1%),
5 provided that this percent change is positive.

6 Notwithstanding the foregoing, the retirement allowance of a member who became a
7 member before January 1, 2015, or who has not earned at least five years of membership
8 service in the Retirement System after January 1, 2015, shall not be reduced; however, the
9 member's last employer shall be required to make an additional contribution as specified in
10 G.S. 128-30(g)(2)b., if applicable."

11 **SECTION 1.(c)** G.S. 135-4 is amended by adding a new subsection to read:

12 "(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
13 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established
14 in G.S. 135-5(a3), the retirement system shall notify the member and the member's employer
15 that the member's retirement allowance has been capped. The retirement system shall compute
16 and notify the member and the member's employer of the total additional amount the member
17 would need to contribute in order to make the member not subject to the contribution-based
18 benefit cap. This total additional amount shall be the actuarial equivalent of a single life annuity
19 adjusted for the age of the member at the time of retirement, or when appropriate, the age at the
20 time of the member's death that would have had to have been purchased to increase the
21 member's benefit to the pre-cap level. The member shall have until 90 days after notification
22 regarding this additional amount or until 90 days after the effective date of retirement,
23 whichever is later, to submit a lump sum payment to the annuity savings fund in order for the
24 retirement system to restore the retirement allowance to the uncapped amount. Nothing
25 contained in this subsection shall prevent an employer from paying all or part of the cost of the
26 amount necessary to restore the member's retirement allowance to the pre-cap amount."

27 **SECTION 1.(d)** G.S. 128-26 is amended by adding a new subsection to read:

28 "(y) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
29 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established
30 in G.S. 128-27(a3), the retirement system shall notify the member and the member's employer
31 that the member's retirement allowance has been capped. The retirement system shall compute
32 and notify the member and the member's employer of the total additional amount the member
33 would need to contribute in order to make the member not subject to the contribution-based
34 benefit cap. This total additional amount shall be the actuarial equivalent of a single life annuity
35 adjusted for the age of the member at the time of retirement, or when appropriate, the age at the
36 time of the member's death that would have had to have been purchased to increase the
37 member's benefit to the pre-cap level. The member shall have until 90 days after notification
38 regarding this additional amount or until 90 days after the effective date of retirement,
39 whichever is later, to submit a lump sum payment to the annuity savings fund in order for the
40 retirement system to restore the retirement allowance to the uncapped amount. Nothing
41 contained in this subsection shall prevent an employer from paying all or part of the cost of the
42 amount necessary to restore the member's retirement allowance to the pre-cap amount."

43 **SECTION 1.(e)** G.S. 135-8(f)(2) is amended by adding a new sub-subdivision to
44 read:

45 "f. Each employer shall transmit to the Retirement System on account of
46 each member who retires on or after January 1, 2015, having earned
47 his last month of membership service as an employee of that
48 employer the lump sum payment, as calculated under G.S. 135-4(jj),
49 that would have been necessary in order for the retirement system to
50 restore the member's retirement allowance to the pre-cap amount.
51 Employers are not required to make contributions on account of any

1 retiree who became a member on or after January 1, 2015, and who
2 earned at least five years of membership service in the Retirement
3 System after January 1, 2015.

4 Under such rules as the Board of Trustees shall adopt, the
5 Retirement System shall report monthly to each employer a list of
6 those members for whom the employer made a contribution to the
7 Retirement System in the preceding month that are most likely to
8 require an additional employer contribution should they elect to retire
9 in the following 12 months, if applicable."

10 **SECTION 1.(f) G.S.128-30(g)(2) reads as rewritten:**

11 **"(2) The collections of employers' contributions shall be made as follows:**

12 **a.** Upon the basis of each actuarial valuation provided herein the Board
13 of Trustees shall annually prepare and certify to each employer a
14 statement of the total amount necessary for the ensuing fiscal year to
15 the pension accumulation fund as provided under subsection (d) of
16 this section. Such employer contributions shall be transmitted to the
17 secretary-treasurer of the Board of Trustees together with the
18 employee deductions as provided under sub-subdivision b. of
19 subdivision (1) of this subsection.

20 **b.** Each employer shall transmit to the Retirement System on account of
21 each member who retires on or after January 1, 2015, having earned
22 his last month of membership service as an employee of that
23 employer the lump sum payment, as calculated under G.S. 128-26(y),
24 that would have been necessary in order for the retirement system to
25 restore the member's retirement allowance to the pre-cap amount.
26 Employers are not required to make contributions on account of any
27 retiree who became a member on or after January 1, 2015, and who
28 earned at least five years of membership service in the Retirement
29 System after January 1, 2015.

30 Under such rules as the Board of Trustees shall adopt, the
31 Retirement System shall report monthly to each employer a list of
32 those members for whom the employer made a contribution to the
33 Retirement System in the preceding month that are most likely to
34 require an additional employer contribution should they elect to retire
35 in the following 12 months, if applicable."

36 **SECTION 2.(a) G.S. 135-5(f) reads as rewritten:**

37 **"(f) Return of Accumulated Contributions. – Should a member cease to be a teacher or**
38 **State employee except by death or retirement under the provisions of this Chapter, he shall**
39 **upon submission of an application be paid, not earlier than 60 days from the date of termination**
40 **of service, his contributions, and ~~if he has attained at least five years of membership service or~~**
41 **~~if termination of his membership service is involuntary as certified by the employer,~~ the**
42 **accumulated regular interest thereon, provided that he has not in the meantime returned to**
43 **service. Upon payment of such sum his membership in the System shall cease and, if he**
44 **thereafter again becomes a member, no credit shall be allowed for any service previously**
45 **rendered except as provided in G.S. 135-4, and such payment shall be in full and complete**
46 **discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof**
47 **satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former**
48 **member there shall be paid to such person or persons as he shall have nominated by electronic**
49 **submission prior to completing 10 years of service in a form approved by the Board of Trustees**
50 **or by written designation duly acknowledged and filed with the Board of Trustees, if such**
51 **person or persons are living at the time of the member's death, otherwise to the member's legal**

representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below. An extension service employee who made contributions to the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System as a result of dual employment may not be paid his accumulated contributions unless he is eligible to be paid his accumulated contributions in both systems for the same period of service.

Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated contributions to the Consolidated Judicial Retirement System or to the Supplemental Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable hereunder.

A member who is a participant or beneficiary of the Disability Income Plan of North Carolina as is provided in Article 6 of this Chapter shall not be paid a return of accumulated contributions, notwithstanding the member's status as an employee or teacher. Notwithstanding any other provision of law to the contrary, a member who is a beneficiary of the Disability Income Plan of North Carolina as provided in Article 6 of this Chapter and who is receiving disability benefits under the transition provisions as provided in G.S. 135-112, shall not be prohibited from receiving a return of accumulated contributions as provided in this subsection."

SECTION 2.(b) G.S. 128-27(f) reads as rewritten:

"(f) Return of Accumulated Contributions. – Should a member cease to be an employee except by death or retirement under the provisions of this Chapter, he shall upon submission of an application be paid, not earlier than 60 days from the date of termination of service, his contributions ~~and, if he has attained at least five years of membership service or if termination of his membership service is involuntary as certified by the employer, and~~ the accumulated regular interest thereon, provided that he has not in the meantime returned to service. Upon payment of such sum his membership in the System shall cease and, if he thereafter again becomes a member, no credit shall be allowed for any service previously rendered except as provided in G.S. 128-26; and such payment shall be in full and complete discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former member there shall be paid to such person or persons as he shall have nominated by electronic submission prior to completing 10 years of service in a form approved by the Board of Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if such person or persons are living at the time of the member's death, otherwise to the member's legal representatives, the amount of his accumulated contributions at the time of his death, unless the beneficiary elects to receive the alternate benefit under the provisions of (m) below. An extension service employee who made contributions to the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System as a result of dual employment may not be paid his accumulated contributions unless he is eligible to be paid his accumulated contributions in both systems for the same period of service.

Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated contributions to the Consolidated Judicial Retirement System or to the Supplemental Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable hereunder."

SECTION 2.(c) G.S. 120-4.25 reads as rewritten:

"§ 120-4.25. Return of accumulated contributions.

If a member ceases to be a member of the General Assembly except by death or retirement, he shall, upon submission of an application, be paid not earlier than 60 days following the date of termination of service, ~~the sum of his contributions if he has less than five years of creditable service, or service~~ the sum of his accumulated contributions ~~if he has five or more years of~~

1 ~~ereditable service~~, provided he has not in the meantime returned to service. Upon payment of
2 this sum his membership in the System ceases. If he becomes a member afterwards, no credit
3 shall be allowed for any service previously rendered except as provided in G.S. 120-4.14 and
4 the payment shall be in full and complete discharge of any rights in or to any benefits otherwise
5 payable under this Article. Upon receipt of proof satisfactory to the Board of Trustees of the
6 death, prior to retirement, of a member or former member, there shall be paid to the person or
7 persons he nominated by electronic submission prior to completing 10 years of service in a
8 form approved by the Board of Trustees or by written designation duly acknowledged and filed
9 with the Board of Trustees, if the person or persons are living at the time of the member's death,
10 otherwise to the member's legal representatives, the amount of his accumulated contributions at
11 the time of his death, unless the beneficiary elects to receive the alternate benefit under the
12 provisions of G.S. 120-4.28."

13 **SECTION 2.(d)** G.S. 135-62(a) reads as rewritten:

14 "(a) Should a member cease membership service otherwise than by death or retirement
15 under the provisions of this Article, he shall, upon submission of an application, be paid, not
16 earlier than 60 days from the date of termination of service, his contributions ~~and, if he has~~
17 ~~attained at least five years of membership service or if termination of his membership service is~~
18 ~~involuntary as certified by the employer, and~~ the accumulated regular interest thereon, provided
19 that he has not in the meantime returned to service as a judge. Upon payment of such
20 accumulated contributions his membership in the Retirement System shall cease and, if he
21 thereafter again becomes a member, no credit shall be allowed for any service previously
22 rendered, except as otherwise provided in G.S. 135-56(b). Any such payment of a member's
23 accumulated contributions shall be in full and complete discharge of any rights in or to any
24 benefits otherwise payable under this Article."

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

26 "(8) The provisions of this subsection (8) shall apply to any member whose
27 membership is terminated on or after July 1, 1963 and who becomes entitled
28 to benefits hereunder in accordance with the provisions hereof.

29 a. Notwithstanding any other provision of this Chapter, any member
30 ~~who became a member prior to August 1, 2011, and who separates~~
31 from service prior to the attainment of the age of 60 years for any
32 reason other than death or retirement for disability as provided in
33 G.S. 135-5(c), after completing 15 or more years of creditable
34 service, and who leaves his total accumulated contributions in said
35 System shall have the right to retire on a deferred retirement
36 allowance upon attaining the age of 60 years; provided that such
37 member may retire only upon electronic submission or written
38 application to the Board of Trustees setting forth at what time, not
39 less than one day nor more than 120 days subsequent to the execution
40 and filing thereof, he desires to be retired; and further provided that
41 in the case of a member who so separates from service on or after
42 July 1, 1967, or whose account is active on July 1, 1967, or has not
43 withdrawn his contributions, the aforesated requirement of 15 or
44 more years of creditable service shall be reduced to 12 or more years
45 of creditable service; and further provided that in the case of a
46 member who so separates from service on or after July 1, 1971, or
47 whose account is active on July 1, 1971, the aforesated requirement
48 of 12 or more years of creditable service shall be reduced to five or
49 more years of creditable service. Such deferred retirement allowance
50 shall be computed in accordance with the service retirement
51 provisions of this Article pertaining to a member who is not a law

enforcement officer or an eligible former law enforcement officer. Notwithstanding the foregoing, any member whose services as a teacher or employee are terminated for any reason other than retirement, who becomes employed by a nonprofit, nonsectarian private school in North Carolina below the college level within one year after such teacher or employee has ceased to be a teacher or employee, may elect to leave his total accumulated contributions in the Teachers' and State Employees' Retirement System during the period he is in the employment of such employer; provided that he files notice thereof in writing with the Board of Trustees of the Retirement System within five years after separation from service as a public school teacher or State employee; such member shall be deemed to have met the requirements of the above provisions of this subdivision upon attainment of age 60 while in such employment provided that he is otherwise vested.

- b. In lieu of the benefits provided in paragraph a of this subdivision (8), any member ~~who became a member prior to August 1, 2011, and~~ who separates from service prior to the attainment of the age of 60 years, for any reason other than death or retirement for disability as provided in G.S. 135-5(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member ~~who became a member prior to August 1, 2011, and~~ who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on

1 a deferred early retirement allowance upon attaining the age of 50
2 years or at any time thereafter; provided, that the member may
3 commence retirement only upon electronic submission or written
4 application to the Board of Trustees setting forth at what time, as of
5 the first day of a calendar month, not less than one day nor more than
6 120 days subsequent to the execution and filing thereof, he desires to
7 commence retirement. The deferred early retirement allowance shall
8 be computed in accordance with the service retirement provisions of
9 this Article pertaining to law-enforcement officers.

10 b2. In lieu of the benefits provided in paragraphs a and b of this
11 subdivision, any member ~~who became a member prior to August 1,~~
12 ~~2011, and who is a law-enforcement officer at the time of separation~~
13 ~~from service prior to the attainment of the age of 55 years, for any~~
14 ~~reason other than death or disability as provided in this Article, after~~
15 ~~completing five or more years of creditable service in this capacity~~
16 ~~immediately prior to separation from service, and who leaves his~~
17 ~~total accumulated contributions in this System may elect to retire on~~
18 ~~a deferred early retirement allowance upon attaining the age of 55~~
19 ~~years or at any time thereafter; provided, that the member may~~
20 ~~commence retirement only upon electronic submission or written~~
21 ~~application to the Board of Trustees setting forth at what time, as of~~
22 ~~the first day of a calendar month not less than one day nor more than~~
23 ~~120 days subsequent to the execution and filing thereof, he desires to~~
24 ~~commence retirement. The deferred early retirement allowance shall~~
25 ~~be computed in accordance with the service retirement provisions of~~
26 ~~this Article pertaining to law-enforcement officers.~~

27 b3. Vested deferred retirement allowance of members retiring on or after
28 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
29 of this subdivision, any member ~~who became a member prior to~~
30 ~~August 1, 2011, and who separates from service prior to attainment~~
31 ~~of age 60 years, after completing 20 or more years of creditable~~
32 ~~service, and who leaves his total accumulated contributions in said~~
33 ~~System, may elect to retire on a deferred retirement allowance upon~~
34 ~~attaining the age of 50 years or any time thereafter; provided that~~
35 ~~such member may so retire only upon electronic submission or~~
36 ~~written application to the Board of Trustees setting forth at what~~
37 ~~time, not less than one day nor more than 120 days subsequent to the~~
38 ~~execution and filing thereof, he desires to be retired. Such deferred~~
39 ~~retirement allowance shall be computed in accordance with the~~
40 ~~service retirement provisions of this Article pertaining to a member~~
41 ~~who is not a law enforcement officer or an eligible former law~~
42 ~~enforcement officer.~~

43 b4. ~~Any member who became a member on or after August 1, 2011, and~~
44 ~~who is not a law enforcement officer and (i) separates from service~~
45 ~~prior to the attainment of the age of 60 years, after completing 25 or~~
46 ~~more years of creditable service, and who leaves the member's total~~
47 ~~accumulated contributions in said System, may elect to retire on an~~
48 ~~unreduced service retirement allowance upon attaining the age of 60~~
49 ~~years or at any time thereafter; or (ii) separates from service prior to~~
50 ~~the attainment of the age of 50 years, after completing 20 or more~~
51 ~~years of creditable service, and who leaves the member's total~~

1 accumulated contributions in said System, may elect to retire on an
2 early reduced retirement allowance upon attaining the age of 50 years
3 or at any time thereafter; or (iii) separates from service prior to the
4 attainment of the age of 60 years, after completing 10 or more years
5 but less than 25 years of creditable service, and who leaves the
6 member's total accumulated contributions in said System, may elect
7 to retire on an early reduced retirement allowance upon attaining the
8 age of 60 years or at any time thereafter; or (iv) separates from
9 service prior to the attainment of the age of 65 years, after
10 completing 10 or more years of creditable service, and who leaves
11 the member's total accumulated contributions in said System, may
12 elect to retire on an unreduced retirement allowance upon attaining
13 the age of 65 years or at any time thereafter; provided that such
14 member may so retire only upon electronic submission or written
15 application to the Board of Trustees setting forth at what time, not
16 less than one day nor more than 120 days subsequent to the execution
17 and filing thereof, the member desires to be retired.

18 b5. Any member who became a member on or after August 1, 2011, who
19 is a law enforcement officer and (i) separates from service prior to
20 attainment of age 50 years, after completing 15 or more years of
21 creditable service in this capacity, and who leaves the member's total
22 accumulated contributions in said System, may elect to retire on an
23 early reduced retirement allowance upon attaining the age of 50 years
24 or any time thereafter; or (ii) separates from service prior to
25 attainment of age 55 years, after completing 10 or more years of
26 creditable service in this capacity, and who leaves the member's total
27 accumulated contributions in said System, may elect to retire on an
28 unreduced retirement allowance upon attaining the age of 55 years or
29 any time thereafter; provided that such member may so retire only
30 upon electronic submission or written application to the Board of
31 Trustees setting forth at what time, not less than one day nor more
32 than 120 days subsequent to the execution and filing thereof, the
33 member desires to be retired.

34"

35 **SECTION 3.(b) G.S. 135-5(a) reads as rewritten:**

36 "(a) Service Retirement Benefits.

37 (1) Any member who became a member prior to August 1, 2011, may retire
38 upon electronic submission or written application to the Board of Trustees
39 setting forth at what time, as of the first day of a calendar month, not less
40 than one day nor more than 120 days subsequent to the execution of and
41 filing thereof, he desires to be retired: Provided, that the said member at the
42 time so specified for his retirement shall have attained the age of 60 years
43 and have at least five years of membership service or shall have completed
44 30 years of creditable service.

45 (1a) Any member who became a member on or after August 1, 2011, may retire
46 upon electronic submission or written application to the Board of Trustees
47 setting forth at what time, as of the first day of a calendar month, not less
48 than one day nor more than 120 days subsequent to the execution of and
49 filing thereof, the member desires to be retired: Provided, that the said
50 member at the time so specified for the member's retirement shall have

attained the age of 60 years and have at least 10 years of membership service or shall have completed 30 years of creditable service.

(2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

(3) Any member who was in service October 8, 1981, who had attained 60 years of age, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired.

(4) Any member who is a law-enforcement officer, ~~who became a member prior to August 1, 2011, officer~~ and who attains age 50 and completes 15 or more years of creditable service in this capacity or who attains age 55 and completes five or more years of creditable service in this capacity, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he desires to be retired; Provided, also, any member who has met the conditions herein required but does not retire, and later becomes a teacher or an employee other than as a law-enforcement officer shall continue to have the right to commence retirement.

~~(4a) Any member who is a law-enforcement officer, who became a member on or after August 1, 2011, and who attains age 50 and completes 15 or more years of creditable service in this capacity or who attains age 55 and completes 10 or more years of creditable service in this capacity, may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, the member desires to be retired; Provided, also, any member who has met the conditions herein required but does not retire, and later becomes a teacher or an employee other than as a law-enforcement officer shall continue to have the right to commence retirement.~~

(5) Any member who is eligible for and is being paid a benefit under the Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be deemed a member in service and may not retire under the provisions of this section. Any member who has made electronic submission or written application for long-term or extended short-term benefits under the Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and who has been rejected by the Plan's Medical Board for a long-term or extended short-term benefit shall have 90 days from the date of notification of the rejection to convert his application to an early or service retirement application, provided that the member meets the eligibility requirements, effective the first day of the month following the month in which short-term disability benefits ended or the first day of the month following the month in which any salary continuation as may be provided in G.S. 135-104 ended, whichever is later."

SECTION 3.(c) G.S. 135-5(a2) is repealed.

SECTION 3.(d) G.S. 135-5(b19) reads as rewritten:

"(b19) Service Retirement Allowance of Members ~~Who Became a Member Prior to August 1, 2011,~~ Retiring on or After July 1, 2002. – Upon retirement from service in accordance with ~~subdivision (a)(1), (a)(4), or subsection (a) or (a1)~~ of this section, on or after July 1, 2002, a member shall receive the following service retirement allowance:

...."

1 **SECTION 3.(e)** G.S. 135-5(b20) is repealed.

2 **SECTION 3.(f)** G.S. 135-5(m) reads as rewritten:

3 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, ~~who became~~
4 ~~a member prior to August 1, 2011,~~ the beneficiary designated to receive a return of
5 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
6 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that
7 the member had retired on the first day of the month following the date of his death, provided
8 that all four of the following conditions apply:

9 "

10 **SECTION 3.(g)** G.S. 135-5(m3) is repealed.

11 **SECTION 3.(h)** G.S. 135-57 reads as rewritten:

12 **"§ 135-57. Service retirement.**

13 (a) Any member on or after January 1, 1974, ~~who became a member prior to August 1,~~
14 ~~2011, and~~ who has attained his fiftieth birthday and five years of membership service may
15 retire upon electronic submission or written application to the board of trustees setting forth at
16 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
17 subsequent to the execution and filing thereof, he desires to be retired.

18 ~~(a1) Any member who became a member on or after August 1, 2011, and who has~~
19 ~~attained the member's fiftieth birthday and 10 years of membership service may retire upon~~
20 ~~electronic submission or written application to the Board of Trustees setting forth at what time,~~
21 ~~as of the first day of a calendar month, not less than one day nor more than 120 days~~
22 ~~subsequent to the execution and filing thereof, the member desires to be retired.~~

23 (b) Any member who is a justice or judge of the General Court of Justice shall be
24 automatically retired as of the first day of the calendar month coinciding with or next following
25 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
26 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
27 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
28 office under the provisions of G.S. 7A-4.20.

29 (c) Any member who terminates service on or after January 1, 1974, having
30 accumulated five or more years of creditable service ~~and having become a member prior to~~
31 ~~August 1, 2011,~~ may retire under the provisions of subsection (a) above, provided that he shall
32 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
33 and the requirement of subsection (a) that the member be in service shall not apply.

34 ~~(c1) Any member having accumulated 10 or more years of creditable service and having~~
35 ~~become a member on or after August 1, 2011, may retire under the provisions of subsection~~
36 ~~(a1) above, provided that the member shall not have withdrawn the member's accumulated~~
37 ~~contributions prior to the effective date of the member's retirement, and the requirement of~~
38 ~~subsection (a1) that the member be in service shall not apply.~~

39 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
40 may retire upon electronic submission or written application to the board of trustees setting
41 forth at what time, as of the first day of a calendar month, not less than one day nor more than
42 120 days subsequent to the execution and filing thereof, he desires to be retired."

43 **SECTION 3.(i)** G.S. 135-106(b) reads as rewritten:

44 "(b) After the commencement of benefits under this section, the benefits payable under
45 the terms of this section during the first 36 months of the long-term disability period shall be
46 equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable
47 to the participant or beneficiary prior to the beginning of the short-term disability period as may
48 be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent
49 (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would
50 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced
51 by any primary Social Security disability benefits to which the beneficiary may be entitled,

effective as of the first of the month following the month of initial entitlement, and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, any other federal agency or any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month. However, a disabled participant may elect to receive any salary continuation as provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall not extend the first 36 consecutive calendar months of the long-term disability period. An election to receive any salary continuation for any part of any given day shall be in lieu of any long-term benefit payable for that day, provided further, any lump-sum payout for vacation leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's benefit shall be reduced during the first 36 months of the long-term disability period by an amount, as determined by the Board of Trustees, equal to a primary Social Security retirement benefit to which the beneficiary might be entitled.

After 36 months of long-term disability, no further benefits are payable under the terms of this section unless the member has been approved and is in receipt of primary Social Security disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable to the participant or beneficiary prior to the beginning of the short-term disability period as may be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security disability benefits to which the beneficiary may be entitled, effective as of the first of the month following the month of initial entitlement, and by monthly payments for Workers' Compensation to which the participant or beneficiary may be entitled. When primary Social Security disability benefits are increased by cost-of-living adjustments, the increased reduction shall be applied in the first month following the month in which the member becomes entitled to the increased Social Security benefit. The monthly benefit shall be further reduced by the amount of any monthly payments from the federal Department of Veterans Affairs, for payments from any other federal agency, or for any payments made under the provisions of G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00) a month.

Notwithstanding the foregoing, ~~but subject to an additional integration with the five year and 10 year retirement vesting provisions as set forth in this paragraph,~~ the long-term disability benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social Security disability benefit until the earliest date at which the beneficiary ~~who became a member prior to August 1, 2011,~~ is eligible for an unreduced service retirement allowance from the Retirement System, at which time the beneficiary would receive a retirement allowance calculated on the basis of the beneficiary's average final compensation at the time of disability as adjusted to reflect compensation increases subsequent to the time of disability and the creditable service accumulated by the beneficiary, including creditable service while in receipt of benefits under the Plan. ~~In the case of any long term disability beneficiary who became a member on and after August 1, 2011, and ordinarily would not be eligible for a retirement benefit without 10 years of membership service, for purposes of this conversion from long term disability to service retirement, and for that purpose only, noncontributory creditable service~~

1 ~~granted while in receipt of disability benefits under this Article shall be deemed to be~~
2 ~~membership service, through the completion of 10 years of combined membership and~~
3 ~~noncontributory service on short term and long term disability benefits in total.~~ In the event the
4 beneficiary has not been approved and is not in receipt of a primary Social Security disability
5 benefit, the long-term disability benefit shall cease after the first 36 months of the long-term
6 disability period. When such a long-term disability recipient begins receiving this unreduced
7 service retirement allowance from the System, that recipient shall not be subject to the
8 six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled
9 to a restoration of the long-term disability benefit in the event the Social Security
10 Administration grants a retroactive approval for primary Social Security disability benefits with
11 a benefit effective date within the first 36 months of the long-term disability period. In such
12 event, the long-term disability benefit shall be restored retroactively to the date of cessation."

13 **SECTION 3.(j)** G.S. 143-166.41 reads as rewritten:

14 **"§ 143-166.41. Special separation allowance.**

15 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
16 as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,
17 agency, or institution ~~prior to August 1, 2011, and~~ who qualifies under this section shall
18 receive, beginning in the month in which he retires on a basic service retirement under the
19 provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths
20 percent (0.85%) of the annual equivalent of the base rate of compensation most recently
21 applicable to him for each year of creditable service. The allowance shall be paid in equal
22 installments on the payroll frequency used by the employer. To qualify for the allowance the
23 officer shall:

- 24 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
25 attained 55 years of age and completed five or more years of creditable
26 service; and
- 27 (2) Not have attained 62 years of age; and
- 28 (3) Have completed at least five years of continuous service as a law
29 enforcement officer as herein defined immediately preceding a service
30 retirement. Any break in the continuous service required by this subsection
31 because of disability retirement or disability salary continuation benefits
32 shall not adversely affect an officer's qualification to receive the allowance,
33 provided the officer returns to service within 45 days after the disability
34 benefits cease and is otherwise qualified to receive the allowance.

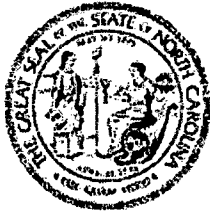
35 ~~(a1) Notwithstanding any other provision of law, every sworn law-enforcement officer~~
36 ~~as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,~~
37 ~~agency, or institution on or after August 1, 2011, and who qualifies under this section shall~~
38 ~~receive, beginning in the month in which the member retires on a basic service retirement under~~
39 ~~the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths~~
40 ~~percent (0.85%) of the annual equivalent of the base rate of compensation most recently~~
41 ~~applicable to him for each year of creditable service. The allowance shall be paid in equal~~
42 ~~installments on the payroll frequency used by the employer. To qualify for the allowance, the~~
43 ~~officer shall:~~

- 44 ~~(1) Have (i) completed 30 or more years of creditable service or (ii) attained 55~~
45 ~~years of age and completed 10 or more years of creditable service; and~~
- 46 ~~(2) Not have attained 62 years of age; and~~
- 47 ~~(3) Have completed at least 10 years of continuous service as a law-enforcement~~
48 ~~officer as herein defined immediately preceding a service retirement. Any~~
49 ~~break in the continuous service required by this subsection because of~~
50 ~~disability retirement or disability salary continuation benefits shall not~~
51 ~~adversely affect an officer's qualification to receive the allowance, provided~~

1 ~~the officer returns to service within 45 days after the disability benefits cease~~
2 ~~and is otherwise qualified to receive the allowance.~~

3 "

4 **SECTION 4.** Sections 1 and 2 of this act become effective January 1, 2015. The
5 remainder of this act is effective when it becomes law.



HOUSE BILL 1193: Retirement Technical Corrections Act of 2014

2013-2014 General Assembly

Committee:	Senate Ref to Pensions & Retirement and Aging. If fav, re-ref to Appropriations/Base Budget	Date:	June 24, 2014
Introduced by:	Reps. Collins, S. Ross	Prepared by:	Theresa Matula Committee Staff
Analysis of:	Second Edition		

SUMMARY: *House Bill 1193 makes the changes outlined below to the following systems: NC Firefighters' and Rescue Squad Workers' Pension Fund, Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Consolidated Judicial Retirement System, State Health Plan for Teachers and State Employees, a closed Legislative Retirement Fund, and Separate Insurance Benefits Plan for law enforcement officers.*

BILL ANALYSIS:

Section 1 amends the definition of "Inactive Member" in the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund (Article 86 of Chapter 58 of the General Statutes) to clarify that an inactive member is a member who has not made timely payments for two consecutive years. This amendment provides further clarification to the changes enacted by S.L. 2013-284.

Section 2 amends the benefits section of the Teachers' and State Employees' Retirement System (TSERS) clarifying the members to which a provision applies that became effective July 1, 1973.

Section 3(a) makes a technical change to the TSERS law to correct a duplicative numbering scheme. **Section 3(b)** amends the Local Government Employees' Retirement System (LGERS) to make a change that is parallel to the TSERS law in Section 3(a) as enacted by S.L. 2013-405. The change allows a member who became a member of the Supplemental Retirement Income Plan prior to retirement, and who remains a member, to make a one-time election to transfer eligible balances. Additionally, consistent with the TSERS changes, an eligible plan is prohibited from assessing a fee specifically related to the transfer of accumulated contributions, but other fees assessable under the plan are not prohibited. Each plan, contract, account, or annuity must fully disclose to any member participating in a transfer, any surrender charges, or other fees, and this disclosure must be made at the same time as the initiation of the transfer by the member.

Section 4 amends the law pertaining to TSERS, LGERS, and the Consolidated Judicial Retirement System (CJRS) to add a definition for "Consumer Price Index" and to clarify the use of the Consumer Price Index when making adjustments to benefits.

Section 5(a) updates the definition of "eligible firefighter" in the State Health Plan for Teachers and State Employees to reflect the definition contained in G.S. 58-86-2 as enacted by S.L. 2013-284. **Section 5(b)** updates the references in the LGERS disability retirement benefits section to reference the definition of "eligible firefighter" and "eligible rescue squad worker" contained in G.S. 58-86-2.

Section 6 pertains to the definition of "Retirement" in the CJRS. This Section further amends a change that was made by S.L. 2013-288, Section 4(c), by narrowing the scope to specify that a member must perform no work in a position covered by Article 4 (Consolidated Judicial Retirement System).

O. Walker Reagan
Director



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House Bill 1193

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Section 7 amends G.S. 120-4.2(c) to allow the General Assembly to make annual, rather than quarterly, transfers of funds to the Department of State Treasurer. (According to the Retirement Systems Division, this involves funds transfer for six surviving members of a closed Legislative Retirement Fund.)

Section 8 corrects the omission of a word in the title of the Teachers' and State Employees' Retirement System as it appears in G.S. 135-103(b)(2).

Section 9 amends the Separate Insurance Benefits Plan for law-enforcement officers contained in G.S. 143-166.60(e) to make a gender neutral change.

EFFECTIVE DATE: Section 4, pertaining to the CPI, becomes effective January 1, 2015, and the remainder of the act becomes effective July 1, 2014.



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
RETIREMENT SYSTEMS DIVISION

JANET COWELL
TREASURER

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

Retirement Technical Corrections Act of 2014

Based upon existing statutory authority, the Department of State Treasurer aims to provide public employees and retirees, including teachers, police officers, firefighters, and public servants from all over the state with secure pensions and retirement. In some instances, the Retirement Systems Division must provide necessary corrections to already existing statutes and laws in order to continually provide this service to its' members.

SECTION ONE: Clarify Rewritten 2013 FRSWPF Statute

The General Assembly rewrote the Firefighter's and Rescue Squad Worker's Pension Fund (FRSWPF) statute in 2013. This section provides for a necessary additional clarification identified by the Department of State Treasurer while implementing the new statute.

SECTION TWO: Clarify Effective Date of Pre-1973 Version of Benefits Statute

This section rewrites an archaic statute to clarify which members to whom it applies so that it is not misconstrued in the future.

SECTION THREE: Add Parallel Changes to LGERS Statute for Transfer Benefit

This section adds changes already made for TSERS to the Transfer Benefit Statute for LGERS to keep the statutes parallel.

SECTION FOUR: Clarify and Update Consumer Price Index Reference in Statute

This section adds a definition of the Consumer Price Index and clarifies the proper usage of the Consumer Price Index for adjusting the earnable allowance.

SECTION FIVE: Correct Changed Statute References

This section adds corrections to synchronize references and benefit options resulting from 2011 and 2013 statute changes.

SECTION SIX: Clarify Judicial Retirement System Definition

This section clarifies that a Judge would have to return to work as a Judge in order to invalidate his or her retirement.

SECTION SEVEN: Clarify Procedure for Legislative Fund Transfers

This section clarifies procedure for transferring funds to the Department of State Treasurer from the N.C. General Assembly for the closed Legislative Retirement Fund that only has six surviving members.

SECTION EIGHT: Correct Typographical Error in Disability Statute

This section corrects the name of the Retirement System in 135-103(b)(2).

SECTION NINE: Correct Gender Reference

This section updates a gender reference.

SECTION TEN: Effective Date

Section 4 of this act becomes effective January 1, 2015. The remainder of this act becomes effective July 1, 2014.

Prepared by the Retirement Systems Division staff, 5/8/20.



NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
RETIREMENT SYSTEMS DIVISION

JANET COWELL
TREASURER

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

Retirement Administrative Changes Act of 2014

North Carolina's 918,000 public employees and retirees rely on the integrity, knowledge, and judgment of the Department of State Treasurer to ensure their pensions are protected. These individuals rely on the integrity, knowledge, and judgment of the Department to ensure their pension is protected. This legislative proposal incorporates provisions that will clarify interpretations of current law and increase efficiency of administration of the 11 retirement systems administered by the Department.

SECTION ONE: Option Four Benefit Timing Change

This section clarifies that the amount of any primary Social Security benefits that a member was eligible to receive during a given month will be subtracted from the member's Option four annuity payment beginning in the month in which such benefits are payable. Currently, the statute allows benefits to be reduced in the month prior to the month in which the beneficiary receives his or her first Social Security payment.

SECTION TWO: 1% Penalty Waiver Clarification

Clarifies procedures for penalty waivers under the employer reporting penalty.

SECTION THREE: Name Beneficiaries for the Contributory Death Benefit (CDB)

This section puts the CDB on parity with all other death benefits by allowing participants to name their beneficiary.

SECTION FOUR: Clarify Governance of Supplemental Insurance Products

This section provides additional transparency to the governance of retirement supplemental insurance benefits by requiring an annual report to the Boards of Trustees of the retirement systems.

SECTION FIVE: Spousal Benefits Change & Retroactive Correction of Health Premium Payments

This section would reduce administrative burden on the retirement system by precluding a non-member spouse from passing a marital share in his/her will. This section also clarifies the recovery procedures for healthcare premiums paid for employees deemed to have been in improper receipt of a retirement benefit.

SECTION SIX: Immunity from Civil Liability for State & Local Retirement Boards

This section provides personal immunity from civil liabilities for fiduciary decisions made by members of the Boards of Trustees of the State & Local systems. Newly appointed members of the Boards have requested this protection.

SECTION SEVEN: Extend QEBA Sunset

Sunset extended to allow for implementation of 2013 Qualified Excess Benefits Arrangement (QEBA) provision.

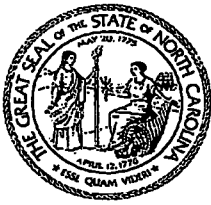
SECTION EIGHT: Correction to Synchronize References and Benefit Options Resulting from 2011 and 2013 Statute Changes

This is technical change to allow for efficient implementation of two earlier provisions that were not requested by the Department of State Treasurer. This would allow Rescue Squad Workers to have the same rarely utilized early retirement option as firefighters.

SECTION NINE: Effective Date

Section 1 and Section 3 of this act become effective January 1, 2015. The remainder of this act becomes effective October 1, 2014.

Prepared by the Retirement Systems Division staff, 5/8/2014



JANET COWELL
TREASURER

NORTH CAROLINA
DEPARTMENT OF STATE TREASURER
RETIREMENT SYSTEMS DIVISION

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

Pension Spiking Prevention Act of 2014

North Carolina's 918,000 public employees and retirees rely on the integrity, knowledge, and judgment of the Department of State Treasurer to ensure their pensions are protected. In helping to secure the pension, the state must have the tools and authority to reduce the risk of fraud and abuse, and to guard the fiscal integrity of the retirement systems.

SECTION ONE: Anti-Pension Spiking – Contribution-Based Benefit Cap

As recommended by Buck Consultants, the retirement system's actuary, this provision allows the Boards of Trustees of the state and local systems to establish an anti-pension spiking contribution-based benefit cap. This approach will prevent employing agencies in the retirement systems from having to pay for the additional liabilities caused by pension spiking by other employing agencies in the retirement systems.

- The pension spiking cap applies to individuals with an Average Final Compensation (AFC) of \$100,000
- For members hired before January 1, 2015, their employer would pay for the additional liability on the retirement system caused by the pension spike

For members hired on or after January 1, 2015, employer or employee may pay for the additional liability, or the employee can choose to receive a reduced benefit

- The Retirement System will report monthly to employers the names of people who may trigger the cap if they retire within 12 months
- The factors used in the contribution-based benefit cap will be set every five years by Boards of Trustees as a part of the regular experience study
- The maximum number of people per year who can be affected by the pension spiking cap is 3/4ths of 1 percent (0.75%) of retirees

SECTION TWO: Return of Contributions with Accumulated Interest

This section allows state and local government employees who leave employment within five years to receive their contributions and with accumulated interest at the current statutory rate of four percent. Currently, all employees receive interest after five years, and only employees who were involuntarily terminated receive interest before five years.

- North Carolina is the only state retirement system in the country that requires new employees to give the state an interest-free loan for five years.

SECTION THREE: Restore Vesting Period

The section also restores the vesting period to five years, instead of 10 years, for all members of the state retirement system hired after 8/1/2011 and for members of the Consolidated Judicial Retirement System.

- **Ten-Year Vesting is Ineffective**

- The vesting period for Teachers & State Employees was increased from 5 years to 10 years in 2011.
 - Primarily done as a cost-savings measure, it is not saving much money.
 - Last year, the one-year savings estimate was 1 basis point, maxing out after >10 years at 7 basis points.
- 10-year vesting is a disincentive to seek employment as a teacher or state employee
- Discriminates against newly hired employees

- **Ten-Year Vesting is Impractical**

- Delayed vesting deprives short-term employees of retirement protection
 - The Center for Retirement Research estimates that an employee in a plan with 5-year vesting is 5 times more likely to remain until vesting than an employee in a plan with 10-year vesting
 - Less than 40% of new employees will remain in employment long enough to become vested under the 10-year vesting law.
- Difficult for elected judiciary and executive leadership

- **Ten-Year Vesting is Inconsistent with HR Goals**

- The length of the vesting period is an important factor for job-seekers
 - Workers are more mobile these days.
 - When starting a new job, people have a hard time imagining that they will stay with their employer for 10 years or more.
 - 10-year vesting makes it more difficult to hire highly-skilled workers.

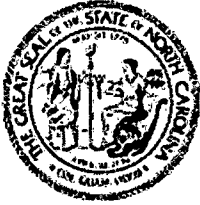
- **Ten-Year Vesting is Uncompetitive**

- A long vesting period reduces the market competitiveness of the Retirement System relative to other public and private pension plans.
 - The 2012 Comparative Study of Major Public Employee Retirement Systems reports that a total of 56 plans, or 64.4% of the 87 included plans, require five or less years of service to vest.
 - By federal law, the vesting period in private sector defined benefit plans cannot exceed 7 years.

SECTION FOUR: Effective Date

Sections 1 and 2 of this act become effective January 1, 2015. The remainder of this act is effective when it becomes law. (Section three is retroactive to 8/1/2011 to avoid creating a set of people with 10 year vesting.)

Prepared by the Retirement Systems Division staff, 5/8/2014



HOUSE BILL 1195: Fiscal Integrity/Pension-Spiking Prevention

2013-2014 General Assembly

Committee:	Senate Pensions & Retirement and Aging	Date:	July 16, 2014
Introduced by:	Reps. Collins, S. Ross	Prepared by:	Theresa Matula
Analysis of:	First Edition		Committee Staff

SUMMARY: *House Bill 1195 does the following three things: (1) adds an Anti-Pension-Spiking Contribution-Based Benefit Cap and a Contribution-Based Benefit Cap Purchase Provision to the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS); (2) allows members of the TSERS, LGERS, Legislative Retirement System (LRS), and the Consolidated Judicial Retirement System (CJRS) who leave employment within five years to receive their contributions and accumulated interest; and (3) returns to a five-year vesting period for members of TSERS and CJRS.*

BILL ANALYSIS:

Anti-Pension-Spiking Contribution-Based Benefit Cap - Section 1 of HB 1195 adds an Anti-Pension-Spiking Contribution-Based Benefit Cap and a Contribution-Based Benefit Cap Purchase Provision to the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS).

Section 1(a) amends the TSERS and **Section 1(b)** amends the LGERS to add an Anti-Pension-Spiking Contribution-Based Benefit Cap. Each Board of Trustees is required to adopt a contribution-based benefit cap factor recommended by the actuary, based upon experience, and that impacts no more than 3/4ths of 1% (0.75%) of the retirement allowances of members. Every five years, each Board of Trustees is required to review the factor, and modify if necessary, based on the actuarial investigation required by current law (G.S. 135-6(n) and G.S. 128-28(o)).

In establishing a service retirement allowance for members retiring on or after January 1, 2015, each Board is required to: (1) determine the member's accumulated contributions, (2) determine the amount of a single life annuity that is the actuarial equivalent of the amount of the accumulated contributions, adjusted for the member's age at retirement, or when appropriate the age at the time of death, (3) multiply the annuity amount by the contribution-based benefit cap factor, and (4) determine the retirement allowance amount from the member's membership service. The product of the multiplication required in item (3) above is the member's contribution-based benefit cap. If the amount under item (4) exceeds the benefit cap determined by item (3), the retirement allowance must be reduced by an amount equal to the differences between (3) and (4). However, members with an average final compensation of less than \$100,000 (indexed annually) are not subject to the contribution-based benefit cap. Additionally, individuals who became members before January 1, 2015, will not have their retirement allowance reduced but the member's last employer is required to make any additional contribution.

Section 1(c) and Section 1(d) amend the TSERS and LGERS retirement law to provide a Contribution-Based Benefit Cap Purchase Provision. The new subsections require each retirement system to notify a member, and the member's employer, if a member's retirement allowance has been capped. Each retirement system is also required to compute the amount of contribution necessary for the member to not be subject to the benefit cap. The member has 90 days to submit payment to



House Bill 1195

Page 2

restore the allowance to the uncapped amount. An employer may also pay all or part of the cost to restore the member's retirement allowance to the pre-cap amount.

Section 1(e) and Section 1(f) establish reporting requirements for TSERS and LGERS employers regarding members that meet certain qualifications. Additionally, each retirement system must provide each employer with a monthly list of those members that are most likely to require an additional employer contribution if they elect to retire in the following 12 months.

Return of Contributions and Interest - **Sections 2 (a), (b), (c), and (d)** amend the Teachers' and State Employees' Retirement System, Local Governmental Employees' Retirement System, Legislative Retirement System, and the Consolidated Judicial Retirement System to allow members who leave employment within five years to receive their contributions and accumulated interest.

Return to 5-Year Vesting - **Section 3** of the bill returns to a five-year vesting period for members of the Teachers' and State Employees' Retirement System (TSERS) and the Consolidated Judicial Retirement System (CJRS) and makes conforming changes. Effective August 1, 2011, S.L. 2011-232 increased the vesting period from five years to ten years in these two systems and made a conforming change in the special separation allowance for law enforcement officers. **Sections 3(a) - (g)** delete the language in the TSERS law to return to a five year vesting period. **Section 3(h)** makes the change in the CJRS. **Section 3(j)** removes the changes to the special separation allowance for law enforcement officers. S.L. 2012-178, Section 5, made changes to conform the Disability Income Plan to ten-year vesting, **Section 3(i)** of this bill removes the references to the ten year vesting changes from the Disability Income Plan.

EFFECTIVE DATE: Sections 1 and 2 become effective January 1, 2015, and the remainder of the act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Retirement Note

BILL NUMBER: House Bill 1193 (First Edition)
SHORT TITLE: Retirement Technical Corrections Act of 2014.
SPONSOR(S): Representatives Collins and S. Ross

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts; local government funds

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Retirement System (TSERS), Consolidated Judicial Retirement System (CJRS), Local Governmental Employees' Retirement System (LGERS), Disability Income Plan (DIP), Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF), Legislative Retirement Fund (LRF), and the Separate Insurance Benefits Plan for State and Local Governmental Law Enforcement Officers (SIBP).

BILL SUMMARY:

Section 1: Amends G.S. 58-86-2(9) to clarify the definition of an inactive member in the FRSWPF.

Section 2: Amends G.S. 135-5(r) to clarify that a minimum benefit established in 1973 only applies to those retired prior to January 1, 1970.

Section 3: Amends G.S. 135-5(m2) and G.S. 128-27(m2) to allow LGERS members to annuitize various types of retirement account balances on a market-value basis. These opportunities are already available to TSERS members.

Section 4: Amends various statutes applicable to TSERS, LGERS, and CJRS to define the term Consumer Price Index as it applies to limits on the amount that can be earned by re-employed retirees and recipients of disability benefits.

Section 5: Amends G.S. 135-48.1(2) and G.S. 128-27(c) to correct references to FRSWPF statutes.

Section 6: Amends G.S. 135-53(16) to clarify that a member of CJRS only invalidates his retirement if he returns to service covered in CJRS in the month following retirement. The existing statute says that the retirement is invalidated due to any work for the State, a change that was made in SL 2013-288, a previous act making technical changes to retirement statutes. The CJRS has been administered as modified in this bill.

Section 7: Amends G.S. 120-4.2(c) to clarify the procedure for transferring funds to pay benefits from the LRF.

Section 8: Amends G.S. 135-103(b)(2) to correct a typographical error in the DIP statutes.

Section 9: Amends G.S. 143-166.60(e) to reflect gender-neutral language in provisions governing the SIBP.

EFFECTIVE DATE: Section four becomes effective January 1, 2015. All other sections would become effective July 1, 2014.

ESTIMATED IMPACT ON STATE:

Both Buck Consultants, the actuary for the retirement systems other than the LRF, and Hartman & Associates, the actuary for the General Assembly, estimate that the bill will have no material impact on the contribution rates or liabilities of any of the systems affected. The LRF is a closed fund with only six members and the bill does not affect the benefits paid nor does it affect the total amount transferred for payment over the course of a year.

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2012 actuarial valuations. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 12/31/2012 unless otherwise noted, M = millions)					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>FRSWPF</u> (6/30/12)	<u>DIP</u>
Active Members					
Count	312,512	122,270	564	40,870	326,594
General Fund Compensation	\$9,891M		\$70M		\$10,773M
Valuation Compensation (Total)	\$13,597M	\$5,427M	\$71M	Not applicable	\$15,134M
Average Age	45	44	55	40	45
Average Service	10.5	10.3	13.2	11.3	Not avail.
Inactive Members					
Count	124,976	47,663	48	154	Not applicable
Retired Members					
Count	179,908	54,547	559	11,912	6,884
Annual Benefits	\$3,713M	\$972M	\$33M	\$24M	\$77M
Average Age	70	68	72	68	Not avail.
New Retirees During 2013	12,400	4,400	40	575	1,096

Financial Statistics (as of 12/31/2012 unless otherwise noted, M = millions)					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>FRSWPF</u> (6/30/2012)	<u>DIP</u>
Accrued Liability (AL)	\$63,630M	Not meaningful	\$528M	\$404M	Not meaningful
Actuarial Value of Assets (AVA)	\$59,912M	\$20,295M	\$481M	\$339M	\$433M
Market Value of Assets (MVA)	\$57,780M	\$19,723M	\$466M	\$322M	\$446M
Unfunded Accrued Liability (AL - AVA)	\$3,718M	Not meaningful	\$46M	\$65M	Not meaningful
Funded Status (AVA / AL)	94%	Not meaningful	91%	84%	Not meaningful
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	8.76%	6.94% (non-LEO)	26.55%	\$14.6M	0.41%
Assumed Rate of Investment Return	7.25%	7.25%	7.25%	7.25%	5.75%
Salary Increase Assumption (includes 3.50% inflation and productivity)	4.25% - 9.10%	4.25% - 8.55%	5.00% - 5.95%	Not applicable	4.25% - 9.10%
Cost Method	Entry Age Normal	Frozen Entry Age	Projected Unit Credit	Entry Age Normal	Aggregate
Amortization	12 year, closed, flat \$	Not applicable	12 year, closed, flat \$	12 year, closed, flat \$	Not applicable
Demographic assumptions based on 2005-2009 experience, RP-2000 mortality with age adjustments, and projection of future mortality improvement with scale AA					

Benefit Provisions					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>FRSWPF</u>	<u>DIP</u>
Formula	1.82% x Service x 4 Year Avg Pay	1.85% x Service x 4 Year Avg Pay	3.02% to 4.02% x Service x Final Pay	\$170 per month	65% of salary for long-term
Unreduced retirement age/service	Any/30; 60/25; 65 (55 for LEO)/10 (5 if hired < Aug 2011)	Any/30; 60/25; 65 (55 for LEO)/5	50/24; 65/10 (5 if hired < Aug 2011)	55/20	Any/5 with permanent disability
Employee contribution (as % of pay)	6%	6%	6%	\$10 per month	None

No information is shown for the LRF because it is a closed fund with only six members. No information is shown for the SIBP because the statute change is simply making the language gender-neutral.

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Retirement Technical Corrections Act of 2014 (House Bill 1193)", May 27, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1193: An Act to Make Technical Changes to the Statutes Affecting the State Retirement Systems", May 27, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogon, Director
Fiscal Research Division

DATE: June 2, 2014



Signed Copy Located in the NCGA Principal Clerk's Offices

House Bill 1193 (First Edition)

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Retirement Note

BILL NUMBER: House Bill 1194 (First Edition)
SHORT TITLE: Retirement Admin. Changes Act of 2014.
SPONSOR(S): Representatives Collins and S. Ross

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts; local government funds

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Retirement System (TSERS), Consolidated Judicial Retirement System (CJRS), Legislative Retirement System (LRS), and the Local Governmental Employees' Retirement System (LGERS).

BILL SUMMARY:

Section 1: Amends G.S. 135-5(g) and G.S. 128-27(g) to change the timing of the offset for Social Security benefits under Option Four. Option Four, one of the payment options available to TSERS and LGERS retirees, provides a higher benefit until the retiree becomes eligible for Social Security and a lower benefit after eligibility, with the goal of providing a more constant income stream in total. Because Social Security benefits for a given month are paid in the following month, this can result in the retiree receiving significantly less total cash flow in the month he or she first becomes eligible for Social Security. This section would delay the reduction in the TSERS or LGERS benefit by one month to avoid this situation.

Section 2: Amends G.S. 135-8(f) and G.S. 128-30(g) to clarify the procedure for granting a penalty waiver to employers that fail to remit contributions in a timely manner.

Section 3: Amends various statutes to allow members to choose a beneficiary for the Contributory Death Benefit of \$10,000. The benefit is currently paid to the spouse, if married, or to the estate. The current payment order would continue to apply if the retiree does not name a beneficiary.

Section 4: Amends G.S. 135-6(i) and G.S. 128-28(j) to require the Boards of Trustees to publish an annual report on supplemental insurance offerings for retirees such as vision, dental, and life insurance.

Section 5: Amends G.S. 135-9 and G.S. 128-31 to limit payment of a member's former spouse's benefit under a domestic relations order entered on or after January 1, 2015 to the lifetime of the former spouse. Currently, the benefit can continue to beneficiaries of the former spouse's estate.

Section 6: Provides personal immunity from civil liabilities for fiduciary decisions made by members of the TSERS and LGERS Boards of Trustees.

Section 7: Amends G.S. 135-151(j) and G.S. 128-38.10(k) to extend the sunset of benefit eligibility from 2015 to 2017 under the Qualified Excess Benefits Arrangement, which provides benefits in excess of the limits in Section 415 of the Internal Revenue Code.

Section 8: Amends G.S. 128-27(a)(1) to allow rescue squad workers to have the same early retirement option at age 55 with five years of service as firefighters. This benefit option is reduced for early payment and is rarely elected.

EFFECTIVE DATE: Sections one and three of the bill would become effective January 1, 2015. Section eight of the bill would become effective July 1, 2014. All other sections of the bill would become effective October 1, 2014.

ESTIMATED IMPACT ON STATE:

Buck Consultants, the actuary for the Retirement Systems, estimates that the required contribution rate will increase by less than 0.01% of payroll due to each of the sections.

Hartman & Associates, the actuary for the General Assembly, estimates that Section 1 will increase the present value of benefits in TSERS by \$8.1 million and in LGERS by \$1.7 million, increasing the required contribution rate by 0.01% of payroll in TSERS and less than 0.01% of payroll in LGERS. None of the other sections were estimated to have a material impact on the retirement systems they affect.

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2012 actuarial valuations. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 12/31/2012 unless otherwise noted, M = millions)				
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>
Active Members				
Count	312,512	122,270	564	169
General Fund Compensation	\$9,891M		\$70M	\$4M
Valuation Compensation (Total)	\$13,597M	\$5,427M	\$71M	\$4M
Average Age	45	44	55	60
Average Service	10.5	10.3	13.2	8.0
Inactive Members				
Count	124,976	47,663	48	81
Retired Members				
Count	179,908	54,547	559	283
Annual Benefits	\$3,713M	\$972M	\$33M	\$2M
Average Age	70	68	72	76
New Retirees During 2013	12,400	4,400	40	37

Financial Statistics (as of 12/31/2012 unless otherwise noted, M = millions)				
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>
Accrued Liability (AL)	\$63,630M	Not meaningful	\$528M	\$24M
Actuarial Value of Assets (AVA)	\$59,912M	\$20,295M	\$481M	\$29M
Market Value of Assets (MVA)	\$57,780M	\$19,723M	\$466M	\$28M
Unfunded Accrued Liability (AL - AVA)	\$3,718M	Not meaningful	\$46M	(\$6M)
Funded Status (AVA / AL)	94%	Not meaningful	91%	123%
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	8.76%	6.94% (non-LEO)	26.55%	0.00%
Assumed Rate of Investment Return	7.25%	7.25%	7.25%	7.25%
Salary Increase Assumption (includes 3.50% inflation and productivity)	4.25% - 9.10%	4.25% - 8.55%	5.00% - 5.95%	7.50%
Cost Method	Entry Age Normal	Frozen Entry Age	Projected Unit Credit	Projected Unit Credit
Amortization	12 year, closed, flat \$	Not applicable	12 year, closed, flat \$	8 year, open, flat \$

Benefit Provisions				
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>
Formula	1.82% x Service x 4 Year Avg Pay	1.85% x Service x 4 Year Avg Pay	3.02% to 4.02% x Service x Final Pay	4.02% x Service x Highest Pay
Unreduced retirement age/service	Any/30; 60/25; 65 (55 for LEO)/10 (5 if hired < Aug 2011)	Any/30; 60/25; 65 (55 for LEO)/5	50/24; 65/10 (5 if hired < Aug 2011)	65/5
Employee contribution (as % of pay)	6%	6%	6%	7%

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Retirement Administrative Changes Act of 2014 (House Bill 1194)", May 29, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1194: An Act to Make Changes to the Administration of the State Retirement Systems", May 29, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 3, 2014



Signed Copy Located in the NCGA Principal Clerk's Offices

GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

Legislative Retirement Note

BILL NUMBER: House Bill 1195 (First Edition)
SHORT TITLE: Fiscal Integrity/Pension-Spiking Prevention.
SPONSOR(S): Representatives Collins and S. Ross

FUNDS AFFECTED: State General Fund, State Highway Fund, other State employer receipts; local government funds

SYSTEM OR PROGRAM AFFECTED: Teachers' and State Employees' Retirement System (TSERS), Consolidated Judicial Retirement System (CJRS), Legislative Retirement System (LRS), Local Governmental Employees' Retirement System (LGERS), Disability Income Plan (DIP), and Special Separation Allowances for Law Enforcement Officers.

BILL SUMMARY:

Section 1: Establishes a contribution-based benefit cap for TSERS and LGERS. The cap is intended to control the practice of "pension spiking", in which compensation increases significantly during or right before the four year period over which compensation is averaged for calculating the benefit. The cap is essentially the annuity equivalent of the accumulated balance of employee contributions, multiplied by a factor. The TSERS and LGERS benefits are typically at least two to three times the annuity equivalent of the employee contributions, so the factor set by the Boards of Trustees would presumably be somewhat greater than three. The Boards of Trustees are required to select a factor such that no more than 0.75% of retirement allowances are expected to be capped. The cap would not apply to members with an average final compensation less than \$100,000, indexed.

For those who became members prior to 2015, the last employer would be required to pay an additional contribution equal to the lump sum equivalent of the benefit in excess of the cap. For those who become members after 2014, the employer and the member will both be given the opportunity to pay the cost of the excess benefit, or the member may choose to have the benefit reduced to the cap. The Retirement System is required to provide a regular report to employers listing those employees most likely to require an additional contribution.

Section 2: Provides a return of contributions with interest (currently 4%) for those terminating with less than five years of service under TSERS, LGERS, CJRS, and LRS. Under current statute, members who terminate voluntarily with less than five years of service receive only their contributions, without interest.

Section 3: Reverses the changes made in sections one through nine of Session Law 2011-232, which increased the service requirement for monthly benefits in TSERS, CJRS, and the Special Separation Allowance from five years to 10 years for those who became members on or after August 1, 2011. The service requirement would be reduced to five years for those members, the same as for those who became members before August 1, 2011.

EFFECTIVE DATE: Sections one and two of the bill would become effective January 1, 2015. Section three would become effective when it becomes law.

ESTIMATED IMPACT ON STATE:

Section 1: Both Buck Consultants, the actuary for the Retirement Systems, and Hartman & Associates, the actuary for the General Assembly, state that the impact of this section cannot be determined because:

- The impact will depend on the factors set by the Boards of Trustees.
- There is limited experience with provisions of this type on which to base assumptions.
- It is uncertain how employers will modify their compensation practices in response to this provision.

Section 2:

The actuaries estimate the following impacts due to the provisions of this section in FY 2014-15:

	Buck Consultants	Hartman & Associates
TSERS		
% of Pay	0.01%	0.01%
General Fund	\$989,100	\$989,100
Highway Fund	\$32,900	\$32,900
Other Funds	\$367,569	\$367,569
CJRS		
% of Pay	<0.01%	<0.01%
General Fund	\$0	\$0
LRS		
% of Pay	<0.01%	<0.01%
General Fund	\$0	\$0
LGERS		
% of Pay	0.01%	0.01%
Local Funds	\$561,132	\$561,132

These impacts are expected to grow with payroll, which is assumed to grow by 3.5% per year.

Section 3:

The actuaries estimate the following impacts due to the provisions of this section in FY 2014-15:

	Buck Consultants	Hartman & Associates
TSERS		
% of Pay	0.01%	0.01%
General Fund	\$989,100	\$989,100
Highway Fund	\$32,900	\$32,900

Other Funds	\$367,569	\$367,569
CJRS		
% of Pay	0.07%	<0.01%
General Fund	\$49,000	\$0

The cost of this provision is expected to grow faster than payroll over future years as the provision affects more new hires. Hartman & Associates projects a long-term cost after 30 years of 0.06% of pay for TSERS and 0.10% of pay for CJRS.

Buck Consultants estimates an increase in State-paid Special Separation Allowances as follows:

Year	2014	2015	2016	2017	2018	2019	2020	2021	2022
	\$0	\$0	\$0	\$7,000	\$15,000	\$23,000	\$35,000	\$20,000	\$0

ASSUMPTIONS AND METHODOLOGY:

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 2012 actuarial valuations. Significant membership and financial statistics, assumptions, and methods are shown in the following tables:

Membership Statistics (as of 12/31/2012 unless otherwise noted, M = millions)					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>DIP</u>
Active Members					
Count	312,512	122,270	564	169	326,594
General Fund Compensation	\$9,891M		\$70M	\$4M	\$10,773M
Valuation Compensation (Total)	\$13,597M	\$5,427M	\$71M	\$4M	\$15,134M
Average Age	45	44	55	60	45
Average Service	10.5	10.3	13.2	8.0	Not avail.
Inactive Members					
Count	124,976	47,663	48	81	Not applicable
Retired Members					
Count	179,908	54,547	559	283	6,884
Annual Benefits	\$3,713M	\$972M	\$33M	\$2M	\$77M
Average Age	70	68	72	76	Not avail.
New Retirees During 2013	12,400	4,400	40	37	1,096

Financial Statistics (as of 12/31/2012 unless otherwise noted, M = millions)					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>DIP</u>
Accrued Liability (AL)	\$63,630M	Not meaningful	\$528M	\$24M	Not meaningful
Actuarial Value of Assets (AVA)	\$59,912M	\$20,295M	\$481M	\$29M	\$433M
Market Value of Assets (MVA)	\$57,780M	\$19,723M	\$466M	\$28M	\$446M
Unfunded Accrued Liability (AL - AVA)	\$3,718M	Not meaningful	\$46M	(\$6M)	Not meaningful
Funded Status (AVA / AL)	94%	Not meaningful	91%	123%	Not meaningful
Annual Required Contribution (ARC) for FY 2014-15 (as % of pay)	8.76%	6.94% (non-LEO)	26.55%	0.00%	0.41%
Assumed Rate of Investment Return	7.25%	7.25%	7.25%	7.25%	5.75%
Salary Increase Assumption (includes 3.50% inflation and productivity)	4.25% - 9.10%	4.25% - 8.55%	5.00% - 5.95%	7.50%	4.25% - 9.10%
Cost Method	Entry Age Normal	Frozen Entry Age	Projected Unit Credit	Projected Unit Credit	Aggregate
Amortization	12 year, closed, flat \$	Not applicable	12 year, closed, flat \$	8 year, open, flat \$	Not applicable
Demographic assumptions based on 2005-2009 experience, RP-2000 mortality with age adjustments, and projection of future mortality improvement with scale AA					

Benefit Provisions					
	<u>TSERS</u>	<u>LGERS</u>	<u>CJRS</u>	<u>LRS</u>	<u>DIP</u>
Formula	1.82% x Service x 4 Year Avg Pay	1.85% x Service x 4 Year Avg Pay	3.02% to 4.02% x Service x Final Pay	4.02% x Service x Highest Pay	65% of salary for long-term
Unreduced retirement age/service	Any/30; 60/25; 65 (55 for LEO)/10 (5 if hired < Aug 2011)	Any/30; 60/25; 65 (55 for LEO)/5	50/24; 65/10 (5 if hired < Aug 2011)	65/5	Any/5 with permanent disability
Employee contribution (as % of pay)	6%	6%	6%	7%	None

No information is shown for the Special Separation Allowance because no consolidated valuation report is produced for that benefit. The benefit provisions are in G.S. 143-166.41 and 42.

Further detailed information concerning these assumptions and methods is shown in the actuary's report, which is available upon request from David Vanderweide.

SOURCES OF DATA:

Buck Consultants, "Pension Spiking Prevention Act of 2014 (House Bill 1195)", May 29, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

Hartman & Associates, LLC, "House Bill 1195: An Act to Enact Anti-Pension-Spiking Legislation, to Allow Members of the TSERS and LGERS Who Leave Employment Within Five Years to Receive a Return of Their Contributions With Accumulated Interest, and to Return to a Five-Year Vesting Period, June 2, 2014, original of which is on file in the General Assembly's Fiscal Research Division.

TECHNICAL CONSIDERATIONS:

FISCAL RESEARCH DIVISION: (919) 733-4910.

The above information is provided in accordance with North Carolina General Statute 120-114 and applicable rules of the North Carolina Senate and House of Representatives.

PREPARED BY: David Vanderweide

APPROVED BY:

Mark Trogdon, Director
Fiscal Research Division

DATE: June 3, 2014



Signed Copy Located in the NCGA Principal Clerk's Offices

SENATE PAGES ATTENDING

COMMITTEE: Pensions ROOM: 643

DATE: 7-17 TIME: 8:30am

PLEASE PRINT LEGIBLY!!!!!!!!!!!!!!....or else!

Page Name	Hometown	Sponsoring Senator
1. Sophie Hennings	East Bend	Krawiec
2. Michaela Alired	Yadkinville	Krawiec
3. Davis Braswell	Fuquay-Varina	Van Deyn
4. Jordan Bagland	Carry	Bryant
5. Ruth Parsons	Raleigh	Hunt
6. Charles Van Dyke	Raleigh	Hunt
7. Weston Davis	Raleigh	Hunt
8. Davis Braswell	Fuquay-Varina	Van Deyn
9. 		
10. 		

Do not add names below the grid.

Pages: Present this form to either the Committee Clerk at the meeting or to the Sgt-at-Arms.

VISITOR REGISTRATION SHEET

Comm PENSIONS & Retirement

2/17/14

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Mary Shuping	NCCCS
Jimmy Broughton	Womble Carlyle
Chris McChae	BP
Der Mark	UNCGA
Mike Tarr	Ady
Ed Tully	BP
Tom West	Poyner
Adam Pridemore	WCTA
Isabel Villar-Garcia	UCSBA
Sam Harris	NC Dept of State Treasurer
Whitney Christensen	NCLM
Rhiannon Bell	NCLMC
Shaunda Martin	NCLM

VISITOR REGISTRATION SHEET

PENSIONS & RETIREMENT

7-17-14

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Meghan Cook	ITS
John Anzarella	TSERS & LGERS Board
Mary Foreman	NCHAE
Perry Hall	School of Law
Beverly Gray	Locke Foundation
Jack Gzert	NSS
Pam Deardorff	NCRSP
Tim McNeill	NCICU
LARRY LANCZE	Buck Consultants
Mike Mebane	TSERS Board & Trustees
JW JOYNER	NEW FRAME

VISITOR REGISTRATION SHEET

7.17

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

M. K. Jones	DCP
Allison Waller	Nelson Mullins
Gregg Stein	NCSA
M. Jillian Delaney	Poyner Spruill LLP
Erin Jones	TUR
Caraan Thie	MVA
Lisa Martz	NC H&A
Doug Lassiter	NESTA
R Rogers	NCRGEA
Robert Thomas	NCMA
Patricia Buffin	NCAEC

VISITOR REGISTRATION SHEET

Name of Committee

Date

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FIRM OR AGENCY AND ADDRESS

Adrian Cohn	NC Shortly Assn.
Paul Sherman	NCFB
Therese	EWU
John P. Peltier	NCAAA
TJ Burbee	NP
Chip Szyja	NCAAS
Amanda Hoxaker	TSS
Marissa Farrell	RTL Gates
Daniel VanLiere	Vidant Health
Joanna Spruiell	NCAFP
Vicky Briggs	NCAFP

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

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Dana Faxon	City of Charlotte
Tom Friedman	AST
Bill Meyer	ASP
Solaki	DST
Mike Eastredy	WellCare
Leanne Winnie	NCSBA
Ardis Watkins	SEARC
Suzanne Beasley	"
Mitch Leonard	"
Mary Beth	AARP-NC
Annaliese Dolph	DL
Kam Mohd Josh Guller	Baychumks with Schurr Johnson, + Brad Young Dept State Treasurer

CASANDRA SKINNER

Trent Womble

Emma Hanson

Paul Bon

Andy Chase

Mildred Spearman

JOE JOHN

Jim Dolan

Terri Noblin

Desti Chicurel-Bogard
J. H. H.

NCAAC

DHHS

OST

Bon; Asso.

KMA

NCAAC

STATE CRIME LAB

OSC

OSC

Guerra Ch.

MNC

VISITOR REGISTRATION SHEET

Name of Committee

Date _____

VISITORS: PLEASE SIGN IN BELOW AND RETURN TO COMMITTEE CLERK

NAME

FIRM OR AGENCY AND ADDRESS

Amy Hobbs

CCNK

Hynes Griggs

CNC

Susanna Davis

www

Jennifer Gasperini

NCMS

Connor Randolph

NEWS

SENATE SERGEANT-AT-ARMS

COMMITTEE: **Senate Pensions and Retirement**

DATE: 07-17-2014

ROOM: 643

1. HAL ROACH

2. ERNIE SHERRELL

3. ED KESLER

4. KEN KIRBY

5. STEVE WILSON

6. BILLY FRITSCHER