

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

SESSION LAW 2022-16
HOUSE BILL 1058

AN ACT MAKING TECHNICAL CORRECTIONS AND OTHER CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM; THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM; THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM; THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT TRUST; THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM; AND THE FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

PART I. CHANGES PERTAINING TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION 1.1. G.S. 135-4(j2) reads as rewritten:

"(j2) Notwithstanding any provision of this Chapter to the contrary on and after January 1, 2023, any member in service with five or more years of membership service may purchase creditable service for service as a member of the General Assembly not otherwise creditable under this section, provided the service is not ~~created~~ ~~credited~~ in the Legislative Retirement Fund nor the Legislative Retirement System, by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement System, except for the following assumptions specific to this calculation: (i) the allowance shall be assumed to commence at the earliest age at which the member could retire on an unreduced retirement allowance and (ii) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this subsection, an employer may pay all or part of the cost of a service purchase of a member in service. To the extent that the purchase is paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account. The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to this System, includes service that was creditable in the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and membership service with those Retirement Systems is membership service with this Retirement System."

SECTION 1.2. G.S. 135-5.3(b6) reads as rewritten:

"(b6) The financial review will be based on financial statements and independent audit reports ~~held by the Local Government Commission~~ or functionally equivalent financial



~~statements and independent audit reports submitted to the Board of Trustees by the charter school."~~

PART II. CHANGES PERTAINING TO THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 2.1. G.S. 128-24(5)c1. reads as rewritten:

"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 the required report is not received within the required 90 days, the Board may do any or all the following:

...

3. Require the employer to pay any amounts that the beneficiary would have been required to pay to the Retirement System under ~~sub-subdivision f.~~ sub-subdivision e. of this subdivision had the report been received within the required 90 days.

Upon receipt by the employer of notice that any payment is due to the Retirement System under this sub-subdivision, the employer shall remit the payment of the amount due to the Retirement System, in one lump sum, no later than 90 days from the date of the notice.

If an employer is required to make payments to the Retirement System under sub-sub-subdivision 2. or sub-sub-subdivision 3. of this sub-subdivision, then (i) the beneficiary shall have no obligation to reimburse the Retirement System for related amounts under sub-subdivisions c. or e. of this subdivision, (ii) the provisions of G.S. 128-31(b) relating to offsetting overpayments against payments made from the Retirement System to the member or beneficiary shall not apply, (iii) the Retirement System shall have no duty under G.S. 143-64.80 to pursue repayment of overpayments from the beneficiary, (iv) the overpayments shall not be considered a debt of the beneficiary under Chapter 105A of the General Statutes, and (v) the beneficiary's effective date of retirement shall be adjusted if the adjustment is required under sub-subdivision e. of this subdivision."

SECTION 2.2 G.S. 128-26(h2) reads as rewritten:

"(h2) Notwithstanding any provision of this Chapter to the contrary on and after January 1, 2023, any member in service with five or more years of membership service may purchase creditable service for service as a member of the General Assembly not otherwise creditable under this section, provided the service is not ~~created~~ credited in the Legislative Retirement Fund nor the Legislative Retirement System, by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement System, except for the following assumptions specific to this calculation: (i) the allowance shall be assumed to commence at the earliest age at which the member could retire on an unreduced retirement allowance and (ii) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this subsection, an employer may pay all or part of the cost of a service purchase of a member in service. To the extent that the purchase is paid by the employer, the cost paid by the employer

shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account."

SECTION 2.3. G.S. 128-27 reads as rewritten:

"§ 128-27. **Benefits.**

...

(e) **Reexamination of Beneficiaries Retired on Account of Disability.** – Once each year during the first five years following retirement of a member on a disability allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of 60 years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon, by the physician or physicians designated by the Board of Trustees. Should any disability beneficiary who has not yet attained the age of 60 years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the Board of Trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the Board of Trustees.

...

(4) As a condition to the receipt of the disability retirement allowance provided for in ~~G.S. 128-27(d), (d1), (d2) and (d3)~~ subsections (d) through (d4) of this section each member retired on a disability retirement allowance shall, on or before April 15 of each calendar year, provide the Board of Trustees with a statement of his or her income received as compensation for services, including fees, commissions or similar items, and income received from business, for the previous calendar year. Such statement shall be filed on a form as required by the Board of Trustees. The benefit payable to a beneficiary who does not or refuses to provide the information requested within 120 days after such request shall not be paid a benefit until the information so requested is provided, and should such refusal or failure to provide such information continue for 180 days after such request, the right of a beneficiary to a benefit under the Article may be terminated.

The Director of the State Retirement Systems shall contact any State or federal agency which can provide information to substantiate the statement required to be submitted by this subdivision and may enter into agreements for the exchange of information.

...

(k1) **Discretionary One-Time Pension Supplements.** – As of December 31 of each year after 2020, the ratio (R) of the Consumer Price Index to such index one year earlier shall be determined, and each beneficiary on the retirement rolls as of ~~July 1~~ September 1 of the calendar year of determination shall be entitled to have a one-time pension supplement paid during October of the same calendar year; provided that any such one-time pension supplement shall be contingent upon a determination by the Board of Trustees under subsection (k) of this section that a permanent increase in benefits will not be paid during the same fiscal year as the one-time pension supplement, but the total fund is providing sufficient investment gains to cover the additional actuarial liabilities on account of such one-time pension supplement. The determination of whether there are sufficient investment gains to cover the one-time pension supplement shall reside exclusively within the discretion of the Board of Trustees and shall be informed by the findings within the annual actuarial valuation reports. In considering whether to grant a one-time pension supplement, the Board of Trustees shall take into account both the rate of inflation as determined by the Consumer Price Index and the record of investment gains or losses during the preceding three-year period. The amount of the one-time pension supplement shall be calculated as a percentage of the annual retirement allowance, where the percentage used

is the ratio (R) calculated to the nearest tenth of one per centum (1/10 of 1%), but not more than four per centum (4%).

A surviving annuitant of a beneficiary shall be provided a one-time pension supplement under this subsection, when and if payable, calculated using the same per centum.

Any supplement granted under this subsection shall be a one-time pension supplement and not a permanent increase in benefits. If the beneficiary dies before payment of the one-time pension supplement is made, then the payment shall be payable to the member's estate or legal representative. No beneficiary shall be deemed to have acquired a vested or contractual right or entitlement to any future one-time pension supplement under this subsection.

...."

PART III. CHANGES PERTAINING TO THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM

SECTION 3.1. G.S. 135-60(a) reads as rewritten:

"(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall receive a disability retirement allowance computed and payable as provided for service retirement in ~~G.S. 135-58(a2)~~ subsection (a6) of G.S. 135-58, except that the member's creditable service shall be taken as the creditable service ~~he-the member~~ would have had ~~had he~~ if the member had continued in service to the earliest date ~~he-the member~~ could have retired on an unreduced service retirement allowance as a member in the same division of the General Court of Justice in which ~~he-the member~~ was serving on ~~his-the member's~~ disability retirement date."

PART IV. CHANGES PERTAINING TO THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT TRUST

SECTION 4.1. G.S. 120-4.27 reads as rewritten:

"§ 120-4.27. Death benefit.

...

The death benefit provided by this section shall be designated a group life insurance benefit payable under an employee welfare benefit plan that is separate and apart from the Retirement System but under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit in the form of group life insurance either by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in the State of North Carolina for the purpose of insuring the lives of qualified members in service, or by establishing or affiliating with a separate trust ~~fund-qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.~~ fund.

...."

SECTION 4.2. G.S. 128-27(l) reads as rewritten:

"(l) **Death Benefit Plan.** – The provisions of this subsection shall become effective for any employer only after an agreement to that effect has been executed by the employer and the Director of the Retirement System. 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. The Plan shall be part of the North Carolina Teachers' and State Employees' Benefit Trust, as established under G.S. 135-7(g). All receipts, transfers, appropriations, contributions, investment earnings, and other income belonging to the Plan shall be deposited in the Benefit Trust. All benefits and expenses against the Plan shall be disbursed from the Benefit Trust. Employer and non-employer contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to providing benefits to members and beneficiaries in

accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject to the claims of creditors of the employees and non-employees making contributions to the Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and are not subject to the claims of creditors of members and beneficiaries. Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the Fund as approved by the Board of Trustees.

...

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund ~~qualified under section 501(c)(9) of the Internal Revenue Code of 1954, as amended,~~ for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

...."

SECTION 4.3. 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. The Plan shall be part of the North Carolina Teachers' and State Employees' Benefit Trust, as established under G.S. 135-7(g). All receipts, transfers, appropriations, contributions, investment earnings, and other income belonging to the Plan shall be deposited in the Benefit Trust. All benefits and expenses against the Plan shall be disbursed from the Benefit Trust. Employer and non-employer contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to providing benefits to participants, surviving spouses, and the members' estates in accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject to the claims of creditors of the employees and non-employees making contributions to the Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and are not subject to the claims of creditors of members and beneficiaries. Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the Fund as approved by the Board of Trustees.

...

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund ~~qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended,~~ for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

...."

SECTION 4.4. G.S. 143-166.60 reads as rewritten:

"§ 143-166.60. Separate insurance benefits plan for law-enforcement officers.

...

(b) The Boards of Trustees of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System shall jointly administer the Plan and shall, under the terms and conditions otherwise appearing in this Article, provide Plan benefits either (i) by establishing a separate trust fund ~~in conformance with Section 501(c)(9) of the Internal Revenue Code of 1954 as amended~~ or, (ii) by causing the Plan to affiliate with a master trust, the North Carolina Teachers' and State Employees' Benefits Trust, providing the same benefits for participants. Employer and non-employer contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to providing benefits to participants, surviving spouses, participants' estates, and persons named by the participant to receive the benefit. The assets of the Benefit Trust are not subject to the claims of creditors of the employees and non-employees making contributions to the Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and are not subject to the claims of creditors of participants. Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the Fund as approved by the Board of Trustees.

...

(e) The insurance benefit of the Plan on account of the death of a participant shall be payable 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 the participant does not wish these benefits to be paid to his or her spouse or estate, then the benefits shall be paid to the person or persons as the participant may name for this purpose. The life insurance benefits shall be payable only on account of participants in the Plan for six or more months or, if an actively employed officer, at any time after employment if death results from an accident. ~~The accident and sickness disability insurance benefits shall be payable to a participant at any time after becoming a participant in the Plan.~~

...."

PART V. CHANGES PERTAINING TO THE ACHIEVE A BETTER LIFE EXPERIENCE (ABLE) PROGRAM

SECTION 5.1. G.S. 147-86.70 reads as rewritten:

"§ 147-86.70. Policy and definitions.

...

- (b) Definitions. – The following definitions apply in this section:
- (1) ABLÉ account. – An account established and owned by an eligible individual and maintained under this Article. ~~A parent, sibling, guardian, or agent under a power of attorney~~ An authorized representative may act on behalf of an account owner.
 - (2) Account owner. – The person who enters into an ABLÉ savings agreement pursuant to the provisions of this Article. The account owner must be the designated beneficiary. An authorized representative may act on behalf of the account owner.
 - (2a) Authorized representative. – An individual or entity authorized to open or manage an ABLÉ account on behalf of an account owner under the provisions of the federal ABLÉ Act and federal regulations promulgated under the Act.

...."

SECTION 5.2. G.S. 147-86.71 reads as rewritten:

"§ 147-86.71. ABLÉ Program.

(a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established an ABLÉ Program Trust to be administered by the ABLÉ Program Board of Trustees established in G.S. 147-86.72 to enable contributors to save funds to meet the costs of the qualified disability

expenses of eligible individuals. The Board shall administer the ABLE Program Trust in compliance with the federal ABLE Act and federal regulations promulgated under the Act.

(b) Accounts. – The following provisions apply to an ABLE account:

- (1) An account owner or ~~contributor~~ authorized representative may establish an account by making an initial contribution to the ABLE Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. ~~If the contributor is not the account owner, the account owner or the account owner's parent, sibling, guardian, trustee, or agent shall also sign the application form.~~

...

(d) Limitations. – The Board, in administering the ABLE Program Trust, shall ensure each of the following:

...

- (9) ~~A parent, sibling, trustee, or guardian appointed as a signatory~~ An authorized representative of an ABLE account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary."

SECTION 5.3. G.S. 147-86.73 reads as rewritten:

"§ 147-86.73. Administration of ABLE Program.

...

(b) Disclaimer. – Nothing in this section shall be construed to create any obligation of the State Treasurer, the Board, the State, or any agency or instrumentality of the State to guarantee for the benefit of any ~~parent, authorized representative~~, other interested party, or designated beneficiary the rate of return or other return for any contribution to the ABLE Program Trust and the payment of interest or other return on any contribution to the ABLE Trust Fund.

...."

PART VI. TECHNICAL CORRECTION TO APPLICABILITY CLAUSE FOR THE FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION FUND

SECTION 6.1. Section 1(e) of S.L. 2016-108 reads as rewritten:

"SECTION 1.(e) Section 1(a) and 1(d) become becomes effective June 1, 2016. Section 1(d) becomes effective June 1, 2016, and apply-applies to benefits paid when a member is killed in the line of duty on or after June 1, 2016, but before July 1, 2018. Section 1(e) becomes effective June 1, 2016. Section 1(b) and 1(c) become effective July 1, 2018, and apply to benefits paid when a member is killed in the line of duty on or after that date."

PART VII. EFFECTIVE DATE

SECTION 7.1. This act becomes effective July 1, 2022.

In the General Assembly read three times and ratified this the 27th day of June, 2022.

s/ Carl Ford
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:35 p.m. this 29th day of June, 2022