

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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SENATE BILL 719

Short Title: Retirement Protection Act. (Public)

Sponsors: Senators Wells, Edwards, and Perry (Primary Sponsors).

Referred to: Rules and Operations of the Senate

May 14, 2020

A BILL TO BE ENTITLED

AN ACT TO MAKE CERTAIN CHANGES TO PRESERVE THE INTEGRITY OF AND CLARIFY THE POLICY OBJECTIVES OF THE GENERAL ASSEMBLY FOR THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1.1.(a) G.S. 135-6(l) reads as rewritten:

"(l) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be the technical adviser of the Board of Trustees on matters regarding the operation of the funds created by the provisions of this Chapter and shall perform such other duties as are required in connection therewith. ~~For purposes of the annual valuation of System assets, the~~ The experience studies, and studies and all other actuarial calculations required by this Chapter, and all the assumptions used by the System's actuary, including mortality tables, interest rates, annuity factors, the contribution-based benefit cap factor, and employer contribution rates, shall be set out in the actuary's periodic ~~reports-reports,~~ annual valuations of System assets, or other materials provided to the Board of Trustees. ~~These~~ Notwithstanding Article 2A of Chapter 150B of the General Statutes, these materials, once accepted by the Board, shall be considered part of the Plan documentation governing this Retirement System; ~~similarly, the System and shall be effective the first day of the month following adoption unless a different date is specified in the adopting resolution.~~ The effective date shall not retroactively affect a contribution rate. The Board's minutes relative to all actuarial assumptions used by the System shall also be considered part of the Plan documentation governing this Retirement System, with the result of precluding any employer discretion in the determination of benefits payable hereunder, consistent with Section 401(a)(25) of the Internal Revenue Code."

SECTION 1.1.(b) G.S. 128-28(m) reads as rewritten:

"(m) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be the technical adviser of the Board of Trustees on matters regarding the operation of the funds created by the provisions of this Chapter and shall perform such other duties as are required in connection therewith. ~~For purposes of the annual valuation of System assets, the~~ The experience studies, and studies and all other actuarial calculations required by this Chapter, and all the assumptions used by the System's actuary, including mortality tables, interest rates, annuity factors, the contribution-based benefit cap factor, and employer contribution rates, shall be set out in the actuary's periodic ~~reports-reports,~~ annual valuations of System assets, or other materials provided to the Board of Trustees. ~~These~~ Notwithstanding Article 2A of Chapter 150B of the



1 General Statutes, these materials, once accepted by the Board, shall be considered part of the
2 Plan documentation governing this Retirement System; similarly, the System and shall be
3 effective the first day of the month following adoption unless a different date is specified in the
4 adopting resolution. The effective date shall not retroactively affect a contribution rate. The
5 Board's minutes relative to all actuarial assumptions used by the System shall also be considered
6 part of the Plan documentation governing this Retirement System, with the result of precluding
7 any employer discretion in the determination of benefits payable hereunder, consistent with
8 Section 401(a)(25) of the Internal Revenue Code."

9 **SECTION 1.1.(c)** G.S. 150B-1(d) reads as rewritten:

10 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
11 following:

12 ...

13 (30) The Retirement System Boards of Trustees established under G.S. 128-28 and
14 G.S. 135-6 when adopting actuarial tables, assumptions, and
15 contribution-based benefit cap factors after presentation of recommendations
16 from the actuary. This exemption includes, but is not limited to, the following
17 actuarial tables, assumptions, methods, and factors:

- 18 a. Joint and survivor tables.
- 19 b. Reserve transfer tables.
- 20 c. Interest rate assumptions.
- 21 d. Salary increase assumptions.
- 22 e. Mortality assumptions.
- 23 f. Separation and retirement assumptions.
- 24 g. Asset smoothing methods.
- 25 h. Actuarial cost methods.
- 26 i. Contribution-based benefit cap factors.
- 27 j. Required contribution rates.
- 28 k. Amortization policies."

29 **SECTION 1.1.(d)** This section is effective when it becomes law, and subsection (c)
30 applies to actuarial tables, assumptions, and contribution-based benefit cap factors adopted or
31 changed on or after that date.

32 **SECTION 1.2.(a)** G.S. 135-6(n) reads as rewritten:

33 "(n) In 1943, and at least once in each five-year period thereafter, the actuary shall make
34 an actuarial investigation into the mortality, service and compensation experience of the members
35 and beneficiaries of the Retirement System, and System and shall make a valuation of the assets
36 and liabilities of the funds of the System, and taking System. Taking into account the result of
37 ~~such the~~ actuarial investigation and valuation, the Board of Trustees ~~shall~~ shall do all of the
38 following:

- 39 (1) ~~Adopt for the Retirement System such any necessary mortality, service and~~
40 ~~service, or other tables as shall be deemed necessary; and tables, and any~~
41 ~~necessary contribution-based benefit cap factors for the Retirement System.~~
- 42 (2) Certify the rates of contributions payable by the State of North Carolina on
43 account of new entrants at various ages.

44 In order to pay for the administration of this section, the Retirement Systems Division of the
45 Department of State Treasurer may increase receipts from the retirement assets of the Retirement
46 System or may pay the costs directly from the retirement assets."

47 **SECTION 1.2.(b)** G.S. 135-6(o) reads as rewritten:

48 "(o) On the basis of ~~such the~~ tables and interest assumption rate as adopted by the Board
49 ~~of Trustees shall adopt, Trustees,~~ the actuary shall make an annual valuation of the assets and
50 liabilities of the funds of the System created by this Chapter. The annual valuation shall include
51 a supplementary section that provides an analysis of assets on a market basis using the 30-year

1 treasury rate as of December 31 of the year of the valuation as the discount rate. In order to pay
 2 for the administration of this section, the Retirement Systems Division of the Department of State
 3 Treasurer may increase receipts from the retirement assets of the Retirement System or may pay
 4 the costs directly from the retirement assets."

5 **SECTION 1.2.(c)** G.S. 128-28(o) reads as rewritten:

6 "(o) In the year 1945, and at least once in each five-year period thereafter, the actuary shall
 7 make an actuarial investigation into the mortality, service and compensation experience of the
 8 members and beneficiaries of the Retirement System, ~~and System and~~ shall make a valuation of
 9 the assets and liabilities of the funds of the System, ~~and taking System.~~ Taking into account the
 10 result of such investigation and valuation, the Board of Trustees ~~shall~~ shall do all of the
 11 following:

- 12 (1) Adopt for the Retirement System such any necessary mortality, service and
 13 service, or other tables as shall be deemed necessary; and tables, and any
 14 necessary contribution-based benefit cap factors for the Retirement System.
- 15 (2) Certify the rates of contributions payable by the participating units on account
 16 of new entrants at various ages.

17 In order to pay for the administration of this section, the Retirement Systems Division of the
 18 Department of State Treasurer may increase receipts from the retirement assets of the Retirement
 19 System or may pay the costs directly from the retirement assets."

20 **SECTION 1.2.(d)** G.S. 128-28(p) reads as rewritten:

21 "(p) On the basis of ~~such the~~ tables and interest assumption rate as adopted by the Board
 22 of Trustees ~~shall adopt, Trustees,~~ the actuary shall make an annual valuation of the assets and
 23 liabilities of the funds of the System created by this Chapter. The annual valuation shall include
 24 a supplementary section that provides an analysis of assets on a market basis using the 30-year
 25 treasury rate as of December 31 of the year of the valuation as the discount rate. In order to pay
 26 for the administration of this section, the Retirement Systems Division of the Department of State
 27 Treasurer may increase receipts from the retirement assets of the Retirement System or may pay
 28 the costs directly from the retirement assets."

29 **SECTION 1.2.(e)** This section is effective when it becomes law and applies to
 30 actuarial investigations and calculations made on or after that date.

31 **SECTION 2.1.(a)** G.S. 135-18.10A(b) is repealed.

32 **SECTION 2.1.(b)** G.S. 128-38.4A(b) is repealed.

33 **SECTION 2.1.(c)** G.S. 135-75.1A(b) is repealed.

34 **SECTION 2.1.(d)** G.S. 120-4.33A(b) is repealed.

35 **SECTION 3.1.(a)** G.S. 135-4(gg) reads as rewritten:

36 "(gg) If a member who is an elected government official and has not vested in this System
 37 on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts committed after July
 38 1, 2007, then that member shall forfeit all benefits under this System, except for a return of
 39 member contributions plus interest. If a member who is an elected government official and has
 40 vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 135-18.10 for acts
 41 committed after July 1, 2007, then that member is not entitled to any creditable service that
 42 accrued after July 1, ~~2007-2007,~~ regardless of whether that creditable service was earned by
 43 virtue of membership in the System, accrued by conversion of sick leave at the point of the
 44 member's retirement, accrued by transfer of service from another retirement system, purchased
 45 by the member in accordance with this Chapter, or accrued by any other means. No member shall
 46 forfeit any benefit or creditable service earned from a position not as an elected government
 47 official. For purposes of this subsection, creditable service attributable to the conversion of sick
 48 leave accrues in this System on the date of retirement, service transferred to this System from
 49 another system accrues in this System on the effective date of the transfer, and purchased service
 50 accrues in this System on the date of the purchase."

51 **SECTION 3.1.(b)** G.S. 135-4(ii) reads as rewritten:

1 (ii) If a member who is in service and has not vested in this System on December 1, 2012,
2 is convicted of an offense listed in G.S. 135-18.10A for acts committed after December 1, 2012,
3 then that member shall forfeit all benefits under this System, except for a return of member
4 contributions plus interest. If a member who is in service and has vested in this System on
5 December 1, 2012, is convicted of an offense listed in G.S. 135-18.10A for acts committed after
6 December 1, 2012, then that member is not entitled to any creditable service that accrued after
7 December 1, ~~2012~~.2012, regardless of whether that creditable service was earned by virtue of
8 membership in the System, accrued by conversion of sick leave at the point of the member's
9 retirement, accrued by transfer of service from another retirement system, purchased by the
10 member in accordance with this Chapter, or accrued by any other means. For purposes of this
11 subsection, creditable service attributable to the conversion of sick leave accrues in this System
12 on the date of retirement, service transferred to this System from another system accrues in this
13 System on the effective date of the transfer, and purchased service accrues in this System on the
14 date of the purchase."

15 **SECTION 3.1.(c)** G.S. 128-26(w) reads as rewritten:

16 (w) If a member who is an elected government official and has not vested in this System
17 on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts committed after July
18 1, 2007, then that member shall forfeit all benefits under this System, except for a return of
19 member contributions plus interest. If a member who is an elected government official and has
20 vested in this System on July 1, 2007, is convicted of an offense listed in G.S. 128-38.4 for acts
21 committed after July 1, 2007, then that member is not entitled to any creditable service that
22 accrued after July 1, ~~2007~~.2007, regardless of whether that creditable service was earned by
23 virtue of membership in the System, accrued by conversion of sick leave at the point of the
24 member's retirement, accrued by transfer of service from another retirement system, purchased
25 by the member in accordance with this Article, or accrued by any other means. No member shall
26 forfeit any benefit or creditable service earned from a position not as an elected government
27 official. For purposes of this subsection, creditable service attributable to the conversion of sick
28 leave accrues in this System on the date of retirement, service transferred to this System from
29 another system accrues in this System on the effective date of the transfer, and purchased service
30 accrues in this System on the date of the purchase."

31 **SECTION 3.1.(d)** G.S. 128-26(x) reads as rewritten:

32 (x) If a member who is in service and has not vested in this System on December 1, 2012,
33 is convicted of an offense listed in G.S. 128-38.4A for acts committed after December 1, 2012,
34 then that member shall forfeit all benefits under this System, except for a return of member
35 contributions plus interest. If a member who is in service and has vested in this System on
36 December 1, 2012, is convicted of an offense listed in G.S. 128-38.4A for acts committed after
37 December 1, 2012, then that member is not entitled to any creditable service that accrued after
38 December 1, ~~2012~~.2012, regardless of whether that creditable service was earned by virtue of
39 membership in the System, accrued by conversion of sick leave at the point of the member's
40 retirement, accrued by transfer of service from another retirement system, purchased by the
41 member in accordance with this Article, or accrued by any other means. For purposes of this
42 subsection, creditable service attributable to the conversion of sick leave accrues in this System
43 on the date of retirement, service transferred to this System from another system accrues in this
44 System on the effective date of the transfer, and purchased service accrues in this System on the
45 date of the purchase."

46 **SECTION 3.1.(e)** G.S. 135-56(g) reads as rewritten:

47 (g) If a member who has not vested in this System on July 1, 2007, is convicted of an
48 offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that member shall
49 forfeit all benefits under this System. If a member who has vested in this System on July 1, 2007,
50 is convicted of an offense listed in G.S. 135-75.1 for acts committed after July 1, 2007, then that
51 member is not entitled to any creditable service that accrued after July 1, ~~2007~~.2007, regardless

1 of whether that creditable service was earned by virtue of membership in the System, accrued by
2 conversion of sick leave at the point of the member's retirement, accrued by transfer of service
3 from another retirement system, purchased by the member in accordance with this Chapter, or
4 accrued by any other means. No member shall forfeit any benefit or creditable service earned
5 from a position not as a justice, judge, district attorney, or clerk of superior court. For purposes
6 of this subsection, creditable service attributable to the conversion of sick leave accrues in this
7 System on the date of retirement, service transferred to this System from another system accrues
8 in this System on the effective date of the transfer, and purchased service accrues in this System
9 on the date of the purchase."

10 **SECTION 3.1.(f)** G.S. 135-56(j) reads as rewritten:

11 "(j) If a member who is in service and has not vested in this System on December 1, 2012,
12 is convicted of an offense listed in G.S. 135-75.1A for acts committed after December 1, 2012,
13 then that member shall forfeit all benefits under this System, except for a return of member
14 contributions plus interest. If a member who is in service and has vested in this System on
15 December 1, 2012, is convicted of an offense listed in G.S. 135-75.1A for acts committed after
16 December 1, 2012, then that member is not entitled to any creditable service that accrued after
17 December 1, ~~2012~~, regardless of whether that creditable service was earned by virtue of
18 membership in the System, accrued by conversion of sick leave at the point of the member's
19 retirement, accrued by transfer of service from another retirement system, purchased by the
20 member in accordance with this Chapter, or accrued by any other means. For purposes of this
21 subsection, creditable service attributable to the conversion of sick leave accrues in this System
22 on the date of retirement, service transferred to this System from another system accrues in this
23 System on the effective date of the transfer, and purchased service accrues in this System on the
24 date of the purchase."

25 **SECTION 3.1.(g)** G.S. 120-4.12(f) reads as rewritten:

26 "(f) If a member who has not vested in this System on July 1, 2007, is convicted of an
27 offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that member shall
28 forfeit all benefits under this System. If a member who has vested in this System on July 1, 2007,
29 is convicted of an offense listed in G.S. 120-4.33 for acts committed after July 1, 2007, then that
30 member is not entitled to any creditable service that accrued after July 1, ~~2007~~, regardless
31 of whether that creditable service was earned by virtue of membership in the System, accrued by
32 conversion of sick leave at the point of the member's retirement, accrued by transfer of service
33 from another retirement system, purchased by the member in accordance with this Article, or
34 accrued by any other means. No member shall forfeit any benefit or creditable service earned
35 from a position not as a member of the General Assembly. For purposes of this subsection,
36 creditable service attributable to the conversion of sick leave accrues in this System on the date
37 of retirement, service transferred to this System from another system accrues in this System on
38 the effective date of the transfer, and purchased service accrues in this System on the date of the
39 purchase."

40 **SECTION 3.1.(h)** G.S. 120-4.12(g) reads as rewritten:

41 "(g) If a member who is a present member of the General Assembly and who has not
42 vested in this System on December 1, 2012, is convicted of an offense listed in G.S. 120-4.33A
43 for acts committed after December 1, 2012, then that member shall forfeit all benefits under this
44 System, except for a return of member contributions plus interest. If a member who is a present
45 member of the General Assembly and has vested in this System on December 1, 2012, is
46 convicted of an offense listed in G.S. 120-4.33A for acts committed after December 1, 2012, then
47 that member is not entitled to any creditable service that accrued after December 1, ~~2012~~,
48 regardless of whether that creditable service was earned by virtue of membership in the System,
49 accrued by conversion of sick leave at the point of the member's retirement, accrued by transfer
50 of service from another retirement system, purchased by the member in accordance with this
51 Article, or accrued by any other means. For purposes of this subsection, creditable service

1 attributable to the conversion of sick leave accrues in this System on the date of retirement,
2 service transferred to this System from another system accrues in this System on the effective
3 date of the transfer, and purchased service accrues in this System on the date of the purchase."

4 **SECTION 3.2.(a)** G.S. 135-18.10B reads as rewritten:

5 **"§ 135-18.10B. Prohibition on purchase of forfeited service.**

6 Any member whose retirement benefits have been forfeited under G.S. 135-18.10 or
7 G.S. 135-18.10A is prohibited from subsequently purchasing or repurchasing either those
8 forfeited benefits or any creditable membership service associated with those forfeited
9 ~~benefits~~.benefits and that service may not be used for the purposes of eligibility for benefits in
10 any retirement system that provides reciprocal benefits."

11 **SECTION 3.2.(b)** G.S. 128-38.4B reads as rewritten:

12 **"§ 128-38.4B. Prohibition on purchase of forfeited service.**

13 Any member whose retirement benefits have been forfeited under G.S. 128-38.4 or
14 G.S. 128-38.4A is prohibited from subsequently purchasing or repurchasing either those forfeited
15 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits
16 and that service may not be used for the purposes of eligibility for benefits in any retirement
17 system that provides reciprocal benefits."

18 **SECTION 3.2.(c)** G.S. 135-75.1B reads as rewritten:

19 **"§ 135-75.1B. Prohibition on purchase of forfeited service.**

20 Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or
21 G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited
22 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits
23 and that service may not be used for the purposes of eligibility for benefits in any retirement
24 system that provides reciprocal benefits."

25 **SECTION 3.2.(d)** G.S. 120-4.33B reads as rewritten:

26 **"§ 120-4.33B. Prohibition on purchase of forfeited service.**

27 Any member whose retirement benefits have been forfeited under G.S. 120-4.3 or
28 G.S. 120-4.3A is prohibited from subsequently purchasing or repurchasing either those forfeited
29 benefits or any creditable membership service associated with those forfeited ~~benefits~~.benefits
30 and that service may not be used for the purposes of eligibility for benefits in any retirement
31 system that provides reciprocal benefits."

32 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
33 law.