

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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SENATE BILL 729  
Pensions and Retirement and Aging Committee Substitute Adopted 4/19/23

Short Title: CBBC Working Group Changes.

(Public)

Sponsors:

Referred to:

April 10, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT TO AMEND THE ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT  
3 CAP LAW FOR SCHOOL SYSTEMS AS BROUGHT FORWARD BY THE WORKING  
4 GROUP ESTABLISHED BY S.L. 2021-72 AND TO PROVIDE ADDITIONAL TOOLS  
5 TO RESOLVE DISPUTED APPLICATIONS OF THE ANTI-PENSION SPIKING LAWS

6 The General Assembly of North Carolina enacts:

7 SECTION 1.(a) G.S. 135-8 reads as rewritten:

8 "§ 135-8. Method of financing.

9 ...

10 (f) Collection of Contributions. –

11 ...

12 (2) The collection of employers' contributions shall be made as follows:

13 ...

14 f1. A public school unit is not required to pay an additional contribution  
15 calculated under G.S. 135-4(jj) for the retirement of a public school  
16 employee if, within 12 months of the assessment, the public school  
17 unit certifies, on a form approved by the Board of Trustees, to all of  
18 the following:

19 1. The retiree's service, during the period used to compute the  
20 retiree's average final compensation, was in a position or  
21 positions where State law or regulation mandates the specific  
22 dollar amount that must be paid from State funds to an  
23 employee in that position or positions or the retiree served a  
24 minimum of 12 years in a position for which State law or  
25 regulation mandates a specific dollar amount that must be paid  
26 from State funds to an employee in that position or positions.

27 2. The greatest local supplement amount paid to the retiree for a  
28 school year during the period used to calculate the employee's  
29 average final compensation did not exceed twenty percent  
30 (20%) of the salary paid to the retiree from State funds for the  
31 same school year.

32 f2. If a public school unit certifies to sub-sub-subdivision f1.1. of this  
33 subdivision but not to sub-sub-subdivision f1.2. of this subdivision,  
34 the additional contribution calculated under G.S. 135-4(jj) will be  
35 adjusted proportionately based on the extent to which the greatest local  
36 supplement amount paid to the retiree for a school year during the



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1 period used to calculate the retiree's average final compensation  
 2 exceeded twenty percent (20%) of the salary paid to the retiree from  
 3 State funds for the same school year, as follows:

- 4 1. If the greatest local supplement amount paid to the retiree for  
 5 a school year during the period used to calculate the average  
 6 final compensation exceeded the salary paid from State funds  
 7 for the same school year by more than twenty percent (20%),  
 8 but less than fifty percent (50%), then the employer pays fifty  
 9 percent (50%) of additional contribution.
- 10 2. If the greatest local supplement amount paid to the retiree for  
 11 a school year during the period used to calculate the average  
 12 final compensation exceeded the salary paid from State funds  
 13 for the same school year by at least fifty percent (50%), then  
 14 the employer pays one hundred percent (100%) of additional  
 15 contribution.

16 ...."

17 **SECTION 1.(b)** This section becomes effective July 1, 2023.

18 **SECTION 2.(a)** The Department of State Treasurer is authorized to resolve any legal  
 19 actions currently pending against the State regarding the anti-pension spiking contribution-based  
 20 benefit cap established in G.S. 135-5(a3), with respect to the amount and terms of payment,  
 21 within the framework established by G.S. 135-8(f)(2).

22 Any additional contribution owed by a school board under G.S. 135-5(a3) and  
 23 G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) on or  
 24 after January 1, 2021, shall be calculated and paid in accordance with G.S. 135-8(f)(2).

25 For any additional contribution owed by a school board under G.S. 135-5(a3) and  
 26 G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) during  
 27 the litigation pause established by Section 3.2 of S.L. 2021-72, and extended by Section 1(a) of  
 28 S.L. 2022-70, the employer contribution rate shall not be adjusted, as required by  
 29 G.S. 135-8(f)(5), before the fiscal year beginning July 1, 2024.

30 Prior to September 1, 2023, the Retirement System shall not request an interception  
 31 of State appropriations pursuant to G.S. 135-8(f)(3) for unpaid contributions attributable to  
 32 retirements that occurred between July 1, 2021, and June 30, 2023.

33 **SECTION 2.(b)** This section is effective when it becomes law.

34 **SECTION 3.(a)** G.S. 135-6 is amended by adding a new subsection to read:

35 "(u) Notwithstanding G.S. 114-2.3 and G.S. 147-17, the Treasurer may designate legal  
 36 counsel, including private counsel, to represent the interests of the administration of benefit  
 37 programs under this Chapter."

38 **SECTION 3.(b)** This section becomes effective July 1, 2023.

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