

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 1020
Committee Substitute Favorable 5/21/24
Committee Substitute #2 Favorable 5/22/24

Short Title: Retirement Admin. Changes Act of 2024.

(Public)

Sponsors:

Referred to:

May 6, 2024

A BILL TO BE ENTITLED
AN ACT MAKING ADMINISTRATIVE AND CONFORMING CHANGES TO THE LAWS
GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM,
THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE
CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE
RETIREMENT SYSTEM, AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

**PART I. CLARIFY EFFECT OF ELECTING THE OPTIONAL RETIREMENT
PROGRAM OR SIMILAR BENEFIT PLAN OFFERED BY THE UNIVERSITY OF
NORTH CAROLINA HEALTH CARE SYSTEM ON THE RECEIPT OF A
RETIREMENT ALLOWANCE UNDER THE TEACHERS' AND STATE EMPLOYEES'
RETIREMENT SYSTEM**

SECTION 1. G.S. 135-3(a)(8) is amended by adding a new sub-subdivision to read:

"h. If a beneficiary who retired on an early or service retirement allowance under this Article is reemployed by an employer with an option to elect to participate in either the Optional Retirement Program or a similar benefit to the Optional Retirement Program offered pursuant to G.S. 116-350.30 or G.S. 116-360.15 and that beneficiary does elect to participate in either program, then that beneficiary's retirement allowance shall be suspended as of the first day of the month following the month in which the beneficiary was reemployed. The beneficiary's retirement allowance shall be reinstated as of the first day of the month following the month in which the beneficiary ceases contributing employment in the Optional Retirement Program or a similar benefit to the Optional Retirement Program offered pursuant to G.S. 116-350.30 or G.S. 116-360.15."

PART II. CHANGES ADDRESSING SEVERANCE PAY

SECTION 2.(a) G.S. 135-5 is amended by adding a new subsection to read:

"(a4) Effect of Severance Pay. – Notwithstanding any provision of this section to the contrary, a member in receipt of severance pay from an employer is not eligible to receive a retirement allowance under this Article while in receipt of that severance pay. If a member is entitled to receive a lump sum severance payment based on a certain period of time, such as a number of weeks or months, then the member is not eligible to receive a retirement allowance



under this Article for any month, beginning immediately after the member's separation from service to that employer, that includes the time period used to determine the lump sum severance payment."

SECTION 2.(b) G.S. 128-27 is amended by adding a new subsection to read:

"(a4) Effect of Severance Pay. – Notwithstanding any provision of this section to the contrary, a member in receipt of severance pay from an employer is not eligible to receive a retirement allowance under this Article while in receipt of that severance pay. If a member is entitled to receive a lump sum severance payment based on a certain period of time, such as a number of weeks or months, then the member is not eligible to receive a retirement allowance under this Article for any month, beginning immediately after the member's separation from service to that employer, that includes the time period used to determine the lump sum severance payment."

SECTION 2.(c) G.S. 135-58 is amended by adding a new subsection to read:

"(f) Notwithstanding any provision of this section or G.S. 135-57 to the contrary, a member in receipt of severance pay from an employer is not eligible to receive a retirement allowance under this Article while in receipt of that severance pay. If, as severance, the member is entitled to receive a lump sum payment based on a certain period of time, such as a number of weeks or months, then the member is not eligible to receive a retirement allowance under this Article for any month, beginning immediately after the member's separation from service to that employer, that includes the time period used to determine the lump sum payment."

SECTION 2.(d) This section is effective January 1, 2025, and applies to members in receipt of severance pay that begins on or after that date and to members entitled to receive a lump sum payment based on a certain period of time that begins on or after that date.

PART III. CHANGES RELATED TO EMPLOYER REPORTING REQUIREMENTS FOR THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 3.(a) G.S. 135-8(f) reads as rewritten:

"(f) Collection of Contributions. – The following shall apply to the collection of contributions:

...

(3) ~~In the event~~ If the employee or employer contributions required under this section, including the information to be submitted in conjunction with those contributions under subdivision (4) of this subsection, are not received by the date set by the Board of Trustees and provided that a one-time exception has not been agreed upon in advance due to exigent circumstances, then the Board shall assess the employer with a 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 for the contributions or the required information by the Board any employer shall not have provided the System with the required records and other information required hereunder information, 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 other than the State shall not have been received by the System from the chief fiscal officer of such the employer within 30 days after the last due date as herein provided, date, then, notwithstanding anything herein in this section or in the provisions of any other provision of law to the contrary, upon notification of the employer's default by the Board to the State Treasurer as to the default of such employer as herein provided, Treasurer, any distributions

which might otherwise be made to ~~such the~~ employer from any funds of the State shall be withheld from ~~such the~~ employer until notice from the Board to the State Treasurer that ~~such the~~ employer is no longer in default.

In the event that an employer fails to submit payment of any required contributions or payments to the Retirement Systems Division, other than the one percent (1%) payment provided for in the first paragraph of this subdivision, within 90 days after the date set by the Board of Trustees, the Board shall notify the State Treasurer of its intent to collect the delinquent contributions and other payments due to the Retirement Systems Division and request an interception of State appropriations due to the participating employer.

Except as provided in this subdivision, upon notification by the Board of Trustees to the State Treasurer and the Office of State Budget and Management as to the default of the employer, the Office of State Budget and Management shall withhold from any State appropriation due to that employer an amount equal to the sum of all delinquent contributions and other debts due to the Retirement Systems Division and shall transmit that amount to the Retirement Systems Division. For the purposes of this subsection, the date set by the Board of Trustees for payment of the contribution-based benefit cap liability shall be 12 months after the member's effective date of retirement, or the first day of the month coincident with or next following six months after the date of the invoice, whichever is later.

- (4) In conjunction with the employee and employer contributions required under this section, the Board of Trustees shall direct employers to submit ~~such~~ information on a monthly basis ~~as that~~ is necessary for proper administration of the Retirement System, actuarial valuation, and reporting under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. This required information shall be considered part of the employee and employer contributions required under this section. The employee and employer contributions are not considered received until the required information is submitted to the Retirement System. Submission of ~~such this~~ information by an employer to the Retirement System constitutes a certification of its accuracy.

...."

SECTION 3.(b) G.S. 128-30(g) reads as rewritten:

"(g) Collection of Contributions. – The following shall apply to the collection of contributions:

...

- (3) ~~In the event~~ If the employee or employer contributions required under this ~~section~~ section, including the information to be submitted in conjunction with those contributions under subdivision (4) of this subsection, are not received by the date set by the Board of Trustees and ~~provided that~~ a one-time exception has not been agreed upon in advance due to exigent circumstances, then the Board shall assess the employer with a 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~~ for the contributions or the required information by the Board any employer shall not have provided the System with the required records and other ~~information required hereunder~~ information, 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 the~~ employer within 30 days after the last due ~~date as herein provided, date,~~ then, notwithstanding anything ~~herein in this section or in the provisions of any other provision of law to the contrary, upon notification of the employer's default~~ by the Board to the State Treasurer ~~as to the default of such employer as herein provided, Treasurer,~~ any distributions which might otherwise be made to ~~such the~~ employer, or the municipality or county of which ~~such the~~ employer is an integral part, from any funds of the State or any funds collected by the State shall be withheld from ~~such the~~ employer until notice from the Board to the State Treasurer that ~~such the~~ employer is no longer in default.

In the event that an employer fails to submit payment of any required contributions or payments to the Retirement Systems Division, other than the one percent (1%) payment provided for in the first paragraph of this subdivision, within 90 days after the date set by the Board of Trustees, the Board shall notify the State Treasurer of its intent to collect the delinquent contributions and other payments due to the Retirement Systems Division and request an interception of State appropriations due to the participating employer.

Except as provided in this subdivision, upon notification by the Board of Trustees to the State Treasurer and the Office of State Budget and Management as to the default of the employer, the Office of State Budget and Management shall withhold from any State appropriation due to that employer an amount equal to the sum of all delinquent contributions and other debts due to the Retirement Systems Division and shall transmit that amount to the Retirement Systems Division. For the purposes of this subsection, the date set by the Board of Trustees for payment of the contribution-based benefit cap liability shall be 12 months after the member's effective date of retirement, or the first day of the month coincident with or next following six months after the date of the invoice, whichever is later.

- (4) In conjunction with the employee and employer contributions required under this section, the Board of Trustees shall direct employers to submit ~~such~~ information on a monthly basis ~~as that~~ is necessary for proper administration of the Retirement System, actuarial valuation, and reporting under accounting standards set forth by the Governmental Accounting Standards Board of the Financial Accounting Foundation. This required information shall be considered part of the employee and employer contributions required under this section. The employee and employer contributions are not considered received until the required information is submitted to the Retirement System. Submission of ~~such this~~ information by an employer to the Retirement System constitutes a certification of its accuracy."

SECTION 3.(c) This section is effective January 1, 2025, and applies to employee and employer contributions, and the information to be submitted in conjunction with those contributions, required on or after that date.

PART IV. EFFECT OF THE DEATH OF A MEMBER OF THE LEGISLATIVE RETIREMENT SYSTEM OCCURRING WHILE APPLYING FOR A RETIREMENT ALLOWANCE

SECTION 4.(a) G.S. 120-4.26 reads as rewritten:
"§ 120-4.26. Benefit payment options.

(a) Any member may elect to receive ~~their~~ benefits in a retirement allowance payable throughout life, or the member may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth ~~below~~, in this section. No election may be made after the first payment becomes normally due and the first payment date has occurred, nor may an election be revoked or a nomination ~~changed~~, changed, except as provided for by this section.

(b) If a member dies after the effective date of retirement for which the member has been approved, then one of the following shall apply:

(1) If the Board of Trustees has received an election of benefits under this section that is properly filed and acknowledged by the member and the member dies before the date when the first payment on account of any benefit normally becomes due and the first benefit payment has occurred, then the retirement benefit shall be payable as provided for by the member's election of benefits.

(2) If the member dies prior to the receipt by the Board of Trustees of an election of benefits under this section that is properly filed and acknowledged by the member, then one of the following shall apply:

a. If the member has no designated beneficiary for a return of accumulated contributions, then the administrator or executor of the member's estate shall elect an option under this section and name the beneficiary or beneficiaries.

b. If the member has only one designated beneficiary for a return of accumulated contributions, then that beneficiary may elect to receive the benefit.

c. If the member has more than one designated beneficiary for a return of accumulated contributions, then the administrator or executor of the member's estate shall elect an option under this section and name the beneficiary or beneficiaries.

(c) The election of Option 2 or Option 3 or the nomination of the person ~~thereunder~~ under either of those options shall be revoked if the person nominated dies prior to the date the first payment becomes normally due and the first payment date has occurred. The election may be revoked by the member prior to the date the first payment becomes normally due and the first payment date has occurred. ~~Provided, however, in the event~~

(d) If a member has elected Option 2 or Option 3 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 payment date has occurred, ~~if occurred~~ and the member remarries he or she remarries, then, within 90 days of the remarriage, the member may nominate a new spouse to receive the retirement allowance under the previously elected option, ~~within 90 days of the remarriage~~ option. 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.

(e) Any member having elected Options 2 or 3 and nominated his or her spouse to receive a retirement allowance upon the member's death may, after divorce from ~~his or her~~ that 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 to the retirement allowance in effect immediately prior to the effective date of the new option.

(f) The benefit payment options under this section are as follows:

(1) Option 1. – For Members Retiring Prior to July 1, 1993. – If a member dies within 10 years from ~~his~~ the member's retirement date, an amount equal to ~~his~~ the member's accumulated contributions at retirement, less one-one hundred

twentieth (1/120) for each month for which ~~he~~the member has received a retirement allowance payment, shall be paid to ~~his~~the member's legal representative or to the person ~~he~~the member nominates by written designation acknowledged and filed with the Board of ~~Trustees~~Trustees.

(2) Option 2. – Upon ~~his~~a member's death, ~~his~~the member's reduced retirement allowance shall be continued throughout the life of and paid to the person ~~he~~the member nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of ~~his~~the member's retirement. If the person selected is other than ~~his~~the member's spouse, then 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 the member.

(3) Option 3. – Upon ~~his~~a member's death, one half of ~~his~~the member's reduced retirement allowance shall be continued throughout the life of and paid to the person ~~he~~the member nominates by written designation duly acknowledged and filed with the Board of Trustees at the time of ~~his~~the member's retirement."

SECTION 4.(b) This section is effective when it becomes law and applies to member deaths occurring on or after that date.

PART VI. LEGISLATIVE ENACTED IMPLEMENTATION ADJUSTMENT FLEXIBILITY

SECTION 6.(a) G.S. 135-7(h) reads as rewritten:

"(h) Legislative Enactment Implementation Arrangement. – The Legislative Enactment Implementation ~~Arrangement (LEIA)~~Arrangement, or LEIA, is established effective October 1, 2017, and placed under the management of the Board of Trustees. The purpose of the LEIA is to provide for timely administrative implementation of legislative provisions regarding the retirement of, or payment of retirement benefits to, public officers or public employees. The LEIA shall have the following parameters:

...

(2) Funding of the LEIA. – In the event that the General Assembly creates or modifies any provision for the retirement of, or payment of retirement benefits to, public officers or public employees that has a cost savings as measured by actuarial note required by Article 15 of Chapter 120 of the General Statutes, the Board of Trustees may direct up to one hundredth percent (0.01%) of the required contributions to fund the LEIA. These funds must be deposited in a separate fund from the fund into which regular employer contributions are deposited for the Retirement System. The Board of Trustees shall not direct any employer contributions into the LEIA after ~~November 1, 2026~~January 1, 2035.

(3) Allocation of LEIA funds. – The Board of Trustees may allocate LEIA funds to (i) the implementation of legislative provisions regarding the retirement of, or payment for retirement benefits to, public officers or public employees, or (ii) be used for administrative or information technology purposes, subject to the following restrictions:

...

e. The Board of Trustees shall identify the specific administrative or information technology purpose for which LEIA funds will be used. Any use of LEIA funds for administrative or information technology purposes requires a determination by the Board of Trustees that the

1 use of funds is necessary to prevent an interruption to the normal
2 operation of the Retirement System.

3 ...

4 (5) Reporting. – The Department of State Treasurer shall report to the Board of
5 Trustees, the Joint Legislative Commission on Governmental Operations, and
6 the Fiscal Research Division on or before August 1 of each year ~~on the (i) and~~
7 provide the following information related to the LEIA:

8 a. The amounts and sources of funds collected by year pursuant to this
9 section and (ii) the section.

10 b. The amounts ~~expended, the~~ expended from the LEIA.

11 c. The projects for which ~~those~~ funds were ~~expended, expended~~ and the
12 current status of the projects.

13 d. The administrative and information technology purposes for which
14 funds were expended and the determination by the Board of Trustees
15 of the necessity to expend funds for those purposes.

16 The Board of Trustees shall also post this report on its public ~~Web~~
17 site website."

18 **SECTION 6.(b)** G.S. 128-29(g) reads as rewritten:

19 "(g) Legislative Enactment Implementation Arrangement. – The Legislative Enactment
20 ~~Implementation Arrangement (LEIA) Arrangement, or LEIA,~~ is established effective October 1,
21 2017, and placed under the management of the Board of Trustees. The purpose of the LEIA is to
22 provide for timely administrative implementation of legislative provisions regarding the
23 retirement of, or payment of retirement benefits to, public officers or public employees. The
24 LEIA shall have the following parameters:

25 ...

26 (2) Funding of the LEIA. – In the event that the General Assembly creates or
27 modifies any provision for the retirement of, or payment of retirement benefits
28 to, public officers or public employees that has a cost savings as measured by
29 actuarial note required by Article 15 of Chapter 120 of the General Statutes,
30 the Board of Trustees may direct up to one hundredth percent (0.01%) of the
31 required contributions to fund the LEIA. These funds must be deposited in a
32 separate fund from the fund into which regular employer contributions are
33 deposited for the Retirement System. The Board of Trustees shall not direct
34 any employer contributions into the LEIA after ~~November 1, 2026~~ January 1,
35 2035.

36 (3) Allocation of LEIA funds. – The Board of Trustees may allocate LEIA funds
37 to (i) the implementation of legislative provisions regarding the retirement of,
38 or payment for retirement benefits to, public officers or public employees, or
39 (ii) be used for administrative or information technology purposes, subject to
40 the following restrictions:

41 ...

42 e. The Board of Trustees shall identify the specific administrative or
43 information technology purpose for which LEIA funds will be used.
44 Any use of LEIA funds for administrative or information technology
45 purposes requires a determination by the Board of Trustees that the
46 use of funds is necessary to prevent an interruption to the normal
47 operation of the Retirement System.

48 ...

49 (5) Reporting. – The Department of State Treasurer shall report to the Board of
50 Trustees, the Joint Legislative Commission on Governmental Operations, and

the Fiscal Research Division on or before August 1 of each year ~~on the (i) and~~
provide the following information related to the LEIA:

a. The amounts and sources of funds collected by year pursuant to this
~~section and (ii) the section.~~

b. The amounts expended, the expended from the LEIA.

c. The projects for which those funds were expended, expended and the
current status of the projects.

d. The administrative and information technology purposes for which
funds were expended and the determination by the Board of Trustees
of the necessity to expend funds for those purposes.

The Board of Trustees shall also post this report on its public ~~Web~~
~~site.~~website."

PART VII. EXPAND ELIGIBILITY FOR PARTICIPATION IN THE NORTH CAROLINA 401(K) SUPPLEMENTAL RETIREMENT INCOME PLAN

SECTION 7.(a) G.S. 135-92(a) reads as rewritten:

"(a) The membership eligibility of the Supplemental Retirement Income Plan shall consist
of any of the following individuals who voluntarily elect to enroll in the Plan:

...

(10) Part-time and full-time employees of an employer that has one or more
employees eligible for the Plan pursuant to subdivisions (1) through (9) of this
subsection.

(11) Part-time and full-time employees of a State agency or institution, or any of
its political subdivisions, that, with the consent of the Board of Trustees, has
elected to allow its employees to enroll in the Plan."

SECTION 7.(b) G.S. 135-93(b) reads as rewritten:

"(b) The State and any of its political subdivisions may make contributions to the
Supplemental Retirement Income Plan on behalf of any of its members, provided these
contributions are nondiscriminatory in accordance with the Internal Revenue Code of 1954 as
amended, and are duly appropriated by their governing bodies, and the contributions are held in
the member's account. An employer may make contributions to the Plan on behalf of its members
who are eligible for the Plan under subdivisions (1) through (9) of G.S. 135-92(a) without making
the same, or any, contributions on behalf of members who are eligible under subdivisions (10)
and (11) of G.S. 135-92(a) and doing so shall not be considered out of compliance with this
subsection. Employer contributions to the Plan are declared expenditures for a public purpose."

SECTION 7.(c) This section is effective January 1, 2025.

PART VIII. ALLOW UNCLAIMED PROPERTY HOLDERS TO SUBMIT REQUESTS TO THE STATE TREASURER FOR A WAIVER OF DUE DILIGENCE IN SPECIAL CIRCUMSTANCES

SECTION 8.(a) G.S. 116B-59 reads as rewritten:

"§ 116B-59. Notice by holders to apparent owners.

...

(a1) A holder of property that is presumed abandoned and that is either (i) a security or
other equity interest in a business association, including a security entitlement under Article 8 of
Chapter 25 of the General Statutes, that is valued at twenty-five dollars (\$25.00) or more or (ii)
property, other than a security or other equity interest in a business association, including a
security entitlement under Article 8 of Chapter 25 of the General Statutes, that is valued at fifty
dollars (\$50.00) or more shall send written notice by first-class mail to the apparent owner not
more than 120 days or less than 60 days before filing the report required by ~~G.S. 116B-60.~~ this
Article. The holder shall exercise reasonable care to ascertain that it is sending the written notice

to the apparent owner's correct address. A holder may authorize a third party to perform the duties required by this subsection. Notwithstanding any third-party authorization, the holder bears responsibility for a failure to comply with this section.

...

(c) The written notice to apparent owners required under this section must contain all of the following:

- (1) A statement that, according to the records of the holder, property is being held to which the addressee appears entitled and the amount or description of the property.
- (2) The name, address, and contact information of the person holding the property and any necessary information regarding changes of name and address of the holder.
- (3) ~~A~~ The date the holder intends to submit the report required under this Article and a statement that, if satisfactory proof of claim is not presented by the owner to the holder by the following October 1 or, if the holder is an insurance company, by the following April 1, the ~~within 30 days of that date, then~~ property will be placed in the custody of the Treasurer, to whom all further claims shall be directed.
- (4) A statement that, once property is placed in the custody of the Treasurer, all interest, dividends, income, and gains earned on the property will remain with the Treasurer, even if the owner subsequently reclaims the property from the Treasurer.

(d) With the written consent of the Treasurer, this section may be waived, in whole or in part, for good cause shown and upon conditions and terms that are prescribed by the Treasurer."

SECTION 8.(b) This section is effective 30 days after this act becomes effective and applies to notices sent on or after that date.

PART IX. EFFECTIVE DATE

SECTION 9. Except as otherwise provided, this act is effective when it becomes law.