

NORTH CAROLINA GENERAL ASSEMBLY
1971 SESSION

CHAPTER 338
SENATE BILL 462

AN ACT TO AMEND THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM ACT SO AS TO PROVIDE AN OPTIONAL RETIREMENT PROGRAM FOR FACULTY MEMBERS AT STATE INSTITUTIONS OF HIGHER EDUCATION.

The General Assembly of North Carolina do enact:

Section 1. G.S. 135-1(25) as the same appears in the 1969 Cumulative Supplement to the General Statutes is hereby amended by changing the period at the end of the first sentence in line eight to a comma and adding "and shall not include those participating in an optional retirement program provided for in G.S. 135-5.1."

Sec. 2. Chapter 135 of the General Statutes is hereby amended by adding a new section immediately following G.S. 135-5, to be designated G.S. 135-5.1, and to read as follows:

"§ 135-5.1. Optional retirement program for State institutions of higher education. — (a) An optional retirement program provided for in this section shall be adopted within one year following the effective date of this section by the following boards, or their successors with respect to the institution or institutions governed by that board:

- (1) Board of Trustees of the University of North Carolina.
- (2) Board of trustees of each of the regional universities, and
- (3) Board of Trustees of the North Carolina School of the Arts, established under Article 4 of Chapter 116 of the General Statutes.

The optional retirement program shall be underwritten by the purchase of annuity contracts, which may be both fixed and variable contracts or a combination thereof, for faculty of the particular institution or institutions with the rank of instructor or above who (a) have been members of the Retirement System less than five years as of the effective date of this section or (b) were appointed to eligible positions on or after the effective date of this section, hereinafter called 'eligible employees'. Under such optional retirement program, the State and the participants shall contribute, to the extent authorized or required, toward the purchase of such contracts which shall be issued to such participants.

- (b) Elections to participate in the optional retirement program shall be made as follows:
 - (1) An election to participate in the optional retirement program shall be irrevocable. An eligible employee failing to elect to participate in the optional retirement program within the period prescribed in this section shall automatically remain a member of the Retirement System.
 - (2) Eligible employees initially appointed on or after the effective date of the adoption of the optional retirement program, shall at the time of entering upon his employment elect (i) to join the Retirement System in accordance with the provisions of law applicable thereto or (ii) to participate in the optional retirement program established pursuant to this section. Such election shall be in writing and filed with the Retirement System and with the employing institution and shall be effective as of the date of entry into service.

- (3) Each eligible employee initially appointed prior to the effective date of the adoption of the optional retirement program, may, within one year from the date of adoption, elect to participate in the optional retirement program. Such election shall be in writing and filed with the Retirement System and with the employing institution and shall become effective on the first day of the second month next following the date of such election and shall constitute a notice of termination of membership in said Retirement System and a request for withdrawal of his accumulated contributions, with regular interest, from the annuity savings fund, thereby waiving all rights and benefits provided by said Retirement System. No matching State funds shall be transferred from the Retirement System.
- (4) No election by an eligible employee of the optional retirement program shall be effective unless it shall be accompanied by an appropriate application for the issuance of a contract or contracts under the program.
- (5) If any participant, having less than five years' coverage under the optional retirement program, leaves the employ of the participating institution and either retires or commences employment with an employer not having a retirement program with the same company, his contract shall, on his request, be repurchased and the participating institution's contribution shall be refunded to the participating institution and forthwith paid by it to the Retirement System and credited to the pension accumulation fund.

(c) Each board of trustees shall contribute on behalf of each participant in such optional retirement program the amount which it or the State of North Carolina would be required to allocate and contribute to the Retirement System for current service for each participant as a member of said Retirement System. Each participant shall contribute the amount which he would be required to contribute if he were a member of said Retirement System. Contributions authorized or required by the provisions of this subsection on behalf of each participant may be made by payroll deduction or salary reduction according to rules and regulations established by each participating board. Additional personal contributions may also be made by a participant in a like manner. Payment of contributions shall be made by the employing institution to the designated company for the benefit of each participant and such contributions shall not be subject to any State tax.

(d) A board adopting the optional retirement program shall designate the company from which contracts are to be purchased under the optional retirement program, and shall approve the form and contents of such contracts. In making such designation and giving such approval, the board shall give due consideration to

- (1) the nature and extent of the rights and benefits to be provided by such contracts for participants and their beneficiaries;
- (2) the relation of such rights and benefits to the amount of contributions to be made;
- (3) the suitability of such rights and benefits to the needs of the participants and the interests of the institutions in recruiting and retaining faculty in a national market; and
- (4) the ability of the designated company to provide such suitable rights and benefits under such contracts for these purposes.

(e) A board adopting the optional retirement program is hereby authorized to provide for the administration of such program and to perform or authorize the performance of all such functions as may be necessary for such purposes.

(f) Any eligible employee electing to participate in the optional retirement program shall be ineligible for membership in the Retirement System so long as he or she shall remain employed in any eligible position by the employing institution or by any other institution

governed by the Board of Trustees of the University of North Carolina or the board of trustees of any regional university or the Board of Trustees of the NCSA, and, in any such event, he or she shall continue to participate in the optional retirement program.

(g) No retirement benefit, death benefit or other benefit under the optional retirement program shall be paid by the State of North Carolina, or the board of trustees of the employing institution, or the Board of Trustees of the Teachers' and State Employees' Retirement System with respect to any employee selecting and participating in the optional retirement program or with respect to any beneficiary of any such employee. Benefits shall be payable to participants or their beneficiaries only by the designated company in accordance with the terms of the contracts."

Sec. 3. This act shall become effective July 1, 1971.

In the General Assembly read three times and ratified, this the 7th day of May, 1971.