

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 367

Short Title: Late Payment Penalty.

(Public)

Sponsors: Representatives Greenwood; N.J. Crawford and Nesbitt.

Referred to: Pensions and Retirement.

March 28, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR PAYMENT OF PENALTIES FOR LATE PAYMENT OF CONTRIBUTIONS BY EMPLOYERS PARTICIPATING IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-23(e) reads as rewritten:

"(e) The agreement of such employer to contribute on account of its employees shall be irrevocable, but should an employer for any reason become financially unable to make the normal and accrued liability contributions payable on account of its employees, then such employer shall be deemed to be in temporary default. Such temporary default shall not relieve such employer from any liability for its contributions payable on account of its employees, employees, but such contributions payable during the period of temporary default shall be paid at such later time as may be mutually agreed upon by the employer and the Board of Trustees together with interest thereon at the rate of six per centum (6%) per annum. At such time as such defaulted contributions together with interest thereon shall be fully paid, such employer shall no longer be deemed in temporary default and shall be restored to good standing in the Retirement System.

Notwithstanding anything to the contrary, the Retirement System shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any employer under this Article, for which reserves have not been previously created from funds contributed by such employer or its employees for such benefits."

Sec. 2. G.S. 128-30(g) reads as rewritten:

1 "(g) Collection of Contributions. –

2 (1) The collection of members' contributions shall be as follows:

3 a. Each employer shall cause to be deducted on each and every
4 payroll of a member for each and every payroll subsequent to
5 the date of participation in the Retirement System the
6 contributions payable by such member as provided in this
7 Article. Each employer shall certify to the treasurer of said
8 employer on each and every payroll a statement as vouchers for
9 the amount so deducted.

10 b. The treasurer of each employer on the authority from the
11 employer shall make deductions from salaries of members as
12 provided in this Article and shall transmit monthly, or at such
13 time as the Board of Trustees shall designate, the amount
14 specified to be deducted, to the secretary-treasurer of the Board
15 of Trustees. The secretary- treasurer of the Board of Trustees
16 after making a record of all such receipts shall deposit them in
17 a bank or banks selected by said Board of Trustees for use
18 according to the provisions of this Article.

19 (2) The collections of employers' contributions shall be made as follows:
20 Upon the basis of each actuarial valuation provided herein the Board
21 of Trustees shall annually prepare and certify to each employer a
22 statement of the total amount necessary for the ensuing fiscal year to
23 the pension accumulation fund as provided under subsection (d) of this
24 section. Such employer contributions shall be transmitted to the
25 secretary-treasurer of the Board of Trustees together with the
26 employee deductions as provided under sub-subdivision b. of
27 subdivision (1) of this subsection.

28 (3) In the event the employee or employer contributions required under
29 this section are not received by the date set by the Board of Trustees,
30 the Board shall assess the employer with a penalty to be paid in such
31 amount and at such time as the Board shall designate. If within 90
32 days after request therefor by the Board any employer shall not have
33 provided the System with the records and other information required
34 hereunder or if the full accrued amount of the contributions provided
35 for under this section due from members employed by an employer or
36 from an employer shall not have been received by the System from the
37 chief fiscal officer of such employer within 30 days after the last due
38 date as herein provided, then, notwithstanding anything herein or in
39 the provisions of any other law to the contrary, upon notification by
40 the Board to the State Treasurer as to the default of such employer as
41 herein provided, any distributions which might otherwise be made to
42 such ~~employer-employer~~, or the municipality or county of which such
43 employer is an integral part, from any funds of the State or any funds
44 collected by the State shall be withheld from such employer until

1 notice from the Board to the State Treasurer that such employer is no
2 longer in default."

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

4 "(f) Collection of Contributions.

5 (1) The collection of members' contributions shall be as follows:

6 a. Each employer shall cause to be deducted on each and every
7 payroll of a member for each and every payroll subsequent to
8 the date of establishment of the Retirement System the
9 contributions payable by such member as provided in this
10 Chapter, and the employer shall draw his warrant for the
11 amount so deducted, payable to the Teachers' and State
12 Employees' Retirement System of North Carolina, and shall
13 transmit the same, together with schedule of the contributions,
14 on such forms as prescribed.

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

16 a. Upon the basis of each actuarial valuation provided herein there
17 shall be prepared biennially and certified to the Department of
18 Administration a statement of the total amount necessary for the
19 ensuing biennium to the pension accumulation and expense
20 funds, as provided under subsections (d) and (f) of this section,
21 and these funds shall be handled and disbursed in accordance
22 with Chapter 100, Public Laws of 1929, and amendments
23 thereto (G.S. 143-1 **et seq.**), known as the Executive Budget
24 Act.

25 b. Until the first valuation has been made and the rates computed
26 as provided in subsection (d) of this section, the amount payable
27 by employers on account of the normal and accrued liability
28 contributions shall be five and fifty-one one-hundredths percent
29 (5.51%) of the payroll of all teachers and three and sixteen one-
30 hundredths percent (3.16%) for other State employees.

31 c. The auditor shall issue his warrant to the State Treasurer
32 directing the State Treasurer to pay this sum to the Board of
33 Trustees, from the appropriations for the Teachers' and State
34 Employees' Retirement System.

35 d. Each board of education in each county and each board of
36 education in each city in which teachers or other employees of
37 the schools receive compensation for services in the public
38 schools from sources other than the appropriation of the State of
39 North Carolina shall pay the Board of Trustees of the State
40 Retirement System such rate of their respective salaries as are
41 paid those of other employees.

42 e. Each employer shall transmit monthly to the State Retirement
43 System on account of each employee, who is a member of this
44 System, an amount sufficient to cover the normal contribution

1 and the accrued liability contribution of each member employed
2 by such employer for the preceding month.

3 (3) In the event the employee or employer contributions required under
4 this section are not received by the date set by the Board of Trustees,
5 the Board shall assess the employer with a penalty to be paid in such
6 amount and at such time as the Board shall designate. If within 90
7 days after request therefor by the Board any employer shall not have
8 provided the System with the records and other information required
9 hereunder or if the full accrued amount of the contributions provided
10 for under this section due from members employed by an employer or
11 from an employer other than the State shall not have been received by
12 the System from the chief fiscal officer of such employer within 30
13 days after the last due date as herein provided, then, notwithstanding
14 anything herein or in the provisions of any other law to the contrary,
15 upon notification by the Board to the State Treasurer as to the default
16 of such employer as herein provided, any distributions which might
17 otherwise be made to such employer from any funds of the State shall
18 be withheld from such employer until notice from the Board to the
19 State Treasurer that such employer is no longer in default."

20 Sec. 4. This act is effective upon ratification.