

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

1

HOUSE BILL 953

Short Title: State Emp. RIF Rights/Options.

(Public)

---

Sponsors: Representatives Cocklereece; Aldridge, Alexander, Buchanan, Church, Culp, Ellis, Fitch, H. Hunter, R. Hunter, McCrary, Pate, Rayfield, Russell, Sexton, and Thompson.

---

Referred to: Public Employees.

---

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT PROVIDING EARLY RETIREMENT OPTIONS TO STATE EMPLOYEES  
2 SUBJECT TO THE STATE PERSONNEL ACT WHO ARE SEPARATED FROM  
3 EMPLOYMENT DUE TO REDUCTIONS IN FORCE AND OTHERWISE  
4 RELATING TO THE RIGHTS AND BENEFITS OF EMPLOYEES SEPARATED  
5 FROM STATE EMPLOYMENT DUE TO REDUCTIONS IN FORCE.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 126-7.1 reads as rewritten:

9 "**§ 126-7.1. Posting requirement; State employees receive priority ~~consideration.~~**  
10 **consideration; reduction-in-force rights and benefits; severance.**

11 (a) All vacancies for which any State agency, department, or institution openly  
12 recruit shall be posted within at least the following:

13 (1) The personnel office of the agency, department, or institution having the  
14 vacancy; and

15 (2) The particular work unit of the agency, department, or institution having  
16 the vacancy

17 in a location readily accessible to employees. If the decision is made, initially or at any  
18 time while the vacancy remains open, to receive applicants from outside the recruiting

1 agency, department, or institution, the vacancy shall be listed with the Office of State  
2 Personnel for the purpose of informing current State employees of such vacancy. The  
3 State agency, department, or institution may not receive approval from the Office of State  
4 Personnel to fill a job vacancy if the agency, department, or institution cannot prove to  
5 the satisfaction of the Office of State Personnel that it complied with these posting  
6 requirements. The agency, department, or institution which hires any person in violation  
7 of these posting requirements shall pay such person when employment is discontinued as  
8 a result of such violation for the work performed during the period of time between his  
9 initial employment and separation.

10 (a1) For the purposes of this section, 'State employee' means a State employee in a  
11 permanent position appointment subject to this Chapter.

12 (a2) State employees to be affected by a planned reduction in force shall be notified  
13 of the reduction in force as soon as practicable, and in any event, no less than 60 days  
14 prior to the effective date of the reduction in force.

15 (a3) The State Personnel Commission shall adopt rules to provide that priority  
16 consideration for State employees separated from State employment as the result of  
17 reductions in force is to enable a State employee's return to career service at a salary  
18 grade and salary rate equal to that held in the most recent position. The State Personnel  
19 Commission shall provide that a State employee who:

20 (1) Accepts a position at the same salary grade shall be paid at the same  
21 salary rate as the employee's previous position.

22 (2) Accepts a position at a lower salary grade than the employee's previous  
23 position shall be paid at the same rate as the previous position unless the  
24 salary rate exceeds the maximum of the new salary grade. When the  
25 salary rate exceeds the maximum of the salary grade, the employee's  
26 new salary rate shall be reduced by no more than ten percent (10%).

27 (a4) Each State department, agency, or institution shall continue to pay the State  
28 Health Plan employee-only premium for employees who are separated due to a reduction  
29 in force for the entire period that the employee remains eligible for priority  
30 reemployment consideration pursuant to this section. At the end of a State employee's  
31 eligibility for priority reemployment consideration, the employee and the employee's  
32 dependents may opt to remain in the State Health Plan on a self-contributing basis at the  
33 same premium rate as active State employees.

34 (a5) Notwithstanding any other provision of law:

35 (1) The State Personnel Commission and the Teachers' and State  
36 Employees' Retirement System of North Carolina shall provide  
37 unreduced retirement benefits for employees separated due to a  
38 reduction in force who are at least 50 years of age and have at least 25  
39 years of service.

40 (2) For employees with at least 20 years of service who are less than 50  
41 years of age, five years shall be added to their age for retirement  
42 purposes.

1 (a6) A State employee separated from employment due to a reduction in force shall  
 2 receive severance salary continuation, payable monthly, consisting of two components:  
 3 (i) a service factor which provides for a continuation of salary as follows:

<u>Years of Service</u>	<u>Payment</u>
<u>Less than 1 year</u>	<u>1 month</u>
<u>1 but less than 5 years</u>	<u>3 months</u>
<u>5 but less than 10 years</u>	<u>6 months</u>
<u>10 but less than 20 years</u>	<u>9 months</u>
<u>20 or more years</u>	<u>12 months</u>

10 and, in addition, (ii) an age adjustment factor, if the employee is 40 years of age or more.  
 11 'Age adjustment factor' means a percentage of an employee's annual salary used in  
 12 determining a State employee's salary severance continuation amount that reflects the  
 13 employee's age over 39 years to recognize that older employees, although protected by  
 14 law from discrimination on the basis of age, do have a more difficult time finding new  
 15 employment due to a lack of transferable skills, current salary level, geographic location,  
 16 and other factors, as follows:

<u>Years of Service</u>	<u>Age Adjustment Factor</u>
<u>Less than 1 year</u>	<u>2.5%</u>
<u>1 but less than 5 years</u>	<u>2.5%</u>
<u>5 but less than 10 years</u>	<u>2.5%</u>
<u>10 but less than 20 years</u>	<u>4.0%</u>
<u>20 or more years</u>	<u>5.0%</u>

22 However, the age adjustment factor shall not exceed the service factor.

24 (b) Subsection (a) of this section does not apply to vacancies which must be filled  
 25 immediately to prevent work stoppage or the protection of the public health, safety, or  
 26 security.

27 (c) If a State employee subject to this section:

- 28 (1) Applies for another position of State employment; and
- 29 (2) Has substantially equal qualifications as an applicant who is not a State  
 30 employee

31 then the State employee shall receive priority consideration over the applicant who is not  
 32 a State employee. ~~This priority consideration shall not apply when the only applicants~~  
 33 ~~considered for the vacancy are current State employees.~~

34 (c1) If a State employee who has been separated due to reduction in force or who  
 35 has been given notice of imminent separation due to reduction in force:

- 36 (1) Applies for another position of State employment equal to or lower in  
 37 salary grade than the position held by the employee at the time of  
 38 notification or separation; and
- 39 (2) Is determined qualified for that position

40 then within the separating agency, the State employee shall receive priority consideration  
 41 over other applicants including those who are current State employees not affected by the  
 42 reduction in force. Within all other agencies, the State employee shall receive priority  
 43 consideration over other applicants from outside State government, but shall receive

1 equal consideration with other applicants who are current State employees not affected by  
2 the reduction in force. This priority shall remain in effect for a period of 12 months from  
3 the date the employee receives notification of separation by reduction in force. State  
4 employees separated due to reduction in force shall receive higher priority than other  
5 applicants with employment or reemployment priorities, except that the reemployment  
6 priority created by G.S. 126-5(e)(1) shall be considered as equal. The ~~reduction-in-force~~  
7 reduction-in-force priority created by this subsection shall be administered in accordance  
8 with rules promulgated by the State Personnel Commission.

9 (c2) If the applicants for a position include current State employees, a State  
10 employee with more than five years of service shall receive priority consideration over a  
11 State employee having less than five years of service in the same or related position  
12 classification. This reemployment priority shall be given by all State departments,  
13 agencies, and institutions with regard to positions subject to this Chapter.

14 (d) 'Qualifications' within the meaning of subsection (c) of this section shall  
15 consist of:

- 16 (1) Training or education;
- 17 (2) Years of experience; and
- 18 (3) Other skills, knowledge, and abilities that bear a reasonable functional  
19 relationship to the abilities and skills required in the job vacancy applied  
20 for."

21 Sec. 2. G.S. 135-40.2 reads as rewritten:

22 **"§ 135-40.2. Eligibility.**

23 (a) The following persons are eligible for coverage under the Plan, on a  
24 noncontributory basis, subject to the provisions of G.S. 135-40.3:

- 25 (1) All permanent full-time employees of an employing unit who meet the  
26 following conditions:

- 27 a. Paid from general or special State funds, or
- 28 b. Paid from non-State funds and in a group for which his or her  
29 employing unit has agreed to provide coverage.

30 Employees of State agencies, departments, institutions, boards, and  
31 commissions not otherwise covered by the Plan who are employed in  
32 permanent job positions on a recurring basis and who work 30 or more  
33 hours per week for nine or more months per calendar year are covered  
34 by the provisions of this subdivision.

- 35 (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at  
36 least one-half of the workdays of each pay period.

- 37 (2) Retired teachers, State employees, members of the General Assembly,  
38 and retired State law enforcement officers who retired under the Law  
39 Enforcement Officers' Retirement System prior to January 1, 1985.

- 40 (2a) Surviving spouses of:

- 41 a. Deceased retired employees, provided the death of the former  
42 plan member occurred prior to October 1, 1986; and

- 1           b. Deceased teachers, State employees, and members of the General  
2           Assembly who are receiving a survivor's alternate benefit under  
3           any of the State-supported retirement programs, provided the  
4           death of the former plan member occurred prior to October 1,  
5           1986.
- 6           (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).
- 7           (3a) Employees of the General Assembly, not otherwise covered by this  
8           section, as determined by the Legislative Services Commission, except  
9           for legislative interns and pages.
- 10          (4) Members of the General Assembly.
- 11          (5) Notwithstanding the provisions of subsection (e) of this section,  
12          employees on official leave of absence while completing a full-time  
13          program in school administration in an approved program as a Principal  
14          Fellow in accordance with Article 5C of Chapter 116 of the General  
15          Statutes.
- 16          (6) Former employees eligible under G.S. 126-7.1(a3) during the  
17          employee's period of priority consideration.
- 18          (b) The following person shall be eligible for coverage under the Plan, on a fully  
19          contributory basis, subject to the provisions of G.S. 135-40.3:
- 20               (1) Repealed by Session Laws 1983, c. 761, s. 255.
- 21               (2) Former members of the General Assembly who enroll before October 1,  
22               1986.
- 23               (2a) For enrollments after September 30, 1986, former members of the  
24               General Assembly if covered under the Plan at termination of  
25               membership in the General Assembly.
- 26               (3) Surviving spouses of deceased former members of the General  
27               Assembly who enroll before October 1, 1986.
- 28               (3a) Employees of the General Assembly, not otherwise covered by this  
29               section, as determined by the Legislative Services Commission, except  
30               for legislative interns and pages.
- 31               (3b) For enrollments after September 30, 1986, surviving spouses of  
32               deceased former members of the General Assembly, if covered under  
33               the Plan at the time of death of the former member of the General  
34               Assembly.
- 35               (4) All permanent part-time employees (designated as half-time or more) of  
36               an employing unit who meets the conditions outlined in subdivision  
37               (a)(1)a above, and who are not covered by the provisions of G.S. 135-  
38               40.2(a)(1).
- 39               (4a) Permanent hourly employees as defined in G.S. 126-5(c4) who work  
40               less than one-half of the workdays of each pay period.
- 41               (5) The spouses and eligible dependent children of enrolled employees,  
42               retirees, and members of the General Assembly.

- 1           (6)   Blind persons licensed by the State to operate vending facilities under  
2           contract with the Department of Human Resources, Division of Services  
3           for the Blind and its successors, who are:  
4           a.     Operating such a vending facility;  
5           b.     Former operators of such a vending facility whose service as an  
6           operator would have made these operators eligible for an early or  
7           service retirement allowance under Article 1 of this Chapter had  
8           they been members of the Retirement System; and  
9           c.     Former operators of such a vending facility who attain five or  
10          more years of service as operators and who become eligible for  
11          and receive a disability benefit under the Social Security Act  
12          upon cessation of service as an operator.
- 13          (7)   Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(j).
- 14          (8)   Surviving spouses of deceased retirees and surviving spouses of  
15          deceased teachers, State employees, and members of the General  
16          Assembly provided the death of the former Plan member occurred after  
17          September 30, 1986, and the surviving spouse was covered under the  
18          Plan at the time of death.
- 19          (9)   Repealed by Session Laws 1987, c. 857, s. 11.1.
- 20          (10)  Any eligible dependent child of the deceased retiree, teacher, State  
21          employee, or member of the General Assembly, provided the child was  
22          covered at the time of death of the retiree, teacher, State employee, or  
23          member of the General Assembly (or was in posse at the time and is  
24          covered at birth under this Part), or was covered under the Plan on  
25          September 30, 1986. Any eligible spouse or dependent child of a person  
26          eligible under subdivision (8) of this subsection if the spouse or  
27          dependent child was enrolled before October 1, 1986.
- 28          (11)  Former employees eligible under G.S. 126-7.1(a3), their spouses, and  
29          dependent children, after expiration of the employee's period of priority  
30          consideration.
- 31          (c)   No person shall be eligible for coverage as an employee or retired employee  
32          and as a dependent of an employee or retired employee at the same time. In addition, no  
33          person shall be eligible for coverage as a dependent of more than one employee or retired  
34          employee at the same time.
- 35          (d)   Former employees who are receiving disability retirement benefits or disability  
36          income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided  
37          the former employee has at least five years of retirement membership service at the time  
38          of disability, shall be eligible for the benefit provisions of this Plan, as set forth in this  
39          Part, on the same basis as a retired employee. Such coverage shall terminate as of the  
40          end of the month in which such former employee is no longer eligible for disability  
41          retirement benefits or disability income benefits pursuant to Article 6 of this Chapter.

1 (e) Employees on official leave of absence without pay may elect to continue this  
2 group coverage at group cost provided that they pay the full employee and employer  
3 contribution through the employing unit during the leave period.

4 (f) For the support of the benefits made available to any member vested at the  
5 time of retirement, their spouses or surviving spouses, and the surviving spouses of  
6 employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those  
7 associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1,  
8 the North Carolina Art Society, Inc., and the North Carolina Symphony Society, Inc.,  
9 each association, organization or board shall pay to the Plan the full cost of providing  
10 these benefits under this section as determined by the Board of Trustees of the Teachers'  
11 and State Employees' Comprehensive Major Medical Plan. In addition, each association,  
12 organization or board shall pay to the Plan an amount equal to the cost of the benefits  
13 provided under this section to presently retired members of each association, organization  
14 or board since such benefits became available at no cost to the retired member.

15 (g) An eligible surviving spouse and any eligible dependent child of a deceased  
16 retiree, teacher, State employee, or member of the General Assembly shall be eligible for  
17 group benefits under this section without waiting periods for preexisting conditions  
18 provided coverage is elected within 90 days after the death of the former plan member.

19 (h) No person shall be eligible for coverage as an employee or retired employee or  
20 as a dependent of an employee or retired employee upon a finding by the Executive  
21 Administrator or Board of Trustees or by a court of competent jurisdiction that the  
22 employee or dependent knowingly and willfully made or caused to be made a false  
23 statement or false representation of a material fact in a claim for reimbursement of  
24 medical services under the Plan."

25 Sec. 3. This act becomes effective July 1, 1995, and applies as to all active  
26 State employees subject to the State Personnel Act on or after that date.