

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 784
Committee Substitute Favorable 4/25/05**

Short Title: Creditable Service/Workers' Compensation.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT CREDITABLE SERVICE IN THE LOCAL
2 GOVERNMENTAL RETIREMENT SYSTEM SHALL INCLUDE PERIODS OF
3 EMPLOYER-APPROVED LEAVES OF ABSENCE WHEN IN RECEIPT OF
4 WORKERS' COMPENSATION BENEFITS.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 128-26(1) reads as rewritten:

8 "(1) Notwithstanding any other provision of this Chapter, any member may
9 purchase creditable service for periods of employer approved leaves of absence when in
10 receipt of benefits under the North Carolina Workers' Compensation Act. This service
11 shall be purchased by paying a cost calculated in the following manner:

- 12 (1) Leaves of Absence Terminated Prior to July 1, 1983. – The cost to a
13 member whose employer approved leave of absence, when in receipt
14 of benefits under the North Carolina Workers' Compensation Act,
15 terminated upon return to service prior to July 1, 1983, shall be a lump
16 sum amount payable to the Annuity Savings Fund equal to the full
17 liability of the service credits calculated on the basis of the
18 assumptions used for purposes of the actuarial valuation of the
19 system's liabilities, and shall take into account the retirement
20 allowance arising on account of the additional service credit
21 commencing at the earliest age at which the member could retire on an
22 unreduced retirement allowance, as determined by the board of
23 trustees upon the advice of the consulting actuary, plus an
24 administrative fee to be set by the Board of Trustees. Notwithstanding
25 the foregoing provisions of this subdivision that provide for the
26 purchase of service credits, the terms "full cost", "full liability", and
27 "full actuarial cost" include assumed annual post-retirement allowance
28 increases, as determined by the Board of Trustees, from the earliest

1 age at which a member could retire on an unreduced service
2 allowance.

- 3 (2) Leaves of Absence Terminating On and After July 1, 1983; 1983, But
4 Before July 1, 2005. – The cost to a member whose employer
5 approved leave of absence, when in receipt of benefits under the North
6 Carolina Workers' Compensation Act, terminates upon return to
7 service on and after July 1, 1983, but before July 1, 2005, shall be a
8 lump sum amount due and payable to the Annuity Savings Fund
9 within six months from return to service equal to the total employee
10 and employer percentage rates of contribution in effect at the time of
11 purchase and based on the annual rate of compensation of the member
12 immediately prior to the leave of absence; Provided, however, the cost
13 to a member whose amount due is not paid within six months from
14 return to service shall be the amount due plus one percent (1%) per
15 month penalty for each month or fraction thereof the payment is made
16 beyond the six-month period.

17 Whenever the creditable service purchased pursuant to this
18 subsection is for a period that occurs during the four consecutive
19 calendar years that would have produced the highest average annual
20 compensation pursuant to G.S. 128-21(5) had the member not been on
21 leave of absence without pay, then the compensation that the member
22 would have received during the purchased period shall be included in
23 calculating the member's average final compensation. In such cases,
24 the compensation that the member would have received during the
25 purchased period shall be based on the annual rate of compensation of
26 the member immediately prior to the leave of absence.

- 27 (3) Leaves of Absence Terminating On and After July 1, 2005. – The cost
28 to a member whose employer approved leave of absence, when in
29 receipt of benefits under the North Carolina Workers' Compensation
30 Act, terminates upon or before a return to service on and after July 1,
31 2005, shall be due and payable to the Annuity Savings Fund within six
32 months from return to service and shall be a lump-sum amount equal
33 to the employee percentage rate of contribution in effect at the time of
34 purchase applied to the annual rate of compensation of the member
35 immediately prior to the leave of absence. For members electing to
36 make this payment, the member's employer which granted the leave of
37 absence, or the member's employer upon a return to service, or both,
38 shall make a matching lump-sum payment to the Pension
39 Accumulation Fund within six months from return to service equal to
40 the employer percentage rate of contribution in effect at the time of
41 purchase applied to the annual rate of compensation of the member
42 immediately prior to the leave of absence. Such purchases of creditable
43 service are applicable only when members have membership service
44 credits within 30 days prior to the leave of absence and within 12

1 months following the leave of absence and such membership service is
2 creditable service at the time of purchase. Notwithstanding any other
3 provision of this subdivision, the cost to a member and to a member's
4 employer or former employer or both employers whose amount due is
5 not paid within six months from return to service shall be the amount
6 due plus one percent (1%) per month penalty for each month or
7 fraction thereof that the payment is made after the six-month period.

8 Whenever the creditable service purchased pursuant to this
9 subsection is for a period that occurs during the four consecutive
10 calendar years that would have produced the highest average annual
11 compensation pursuant to G.S. 128-21(5) had the member not been on
12 leave of absence without pay, then the compensation that the member
13 would have received during the purchased period shall be included in
14 calculating the member's average final compensation. In such cases,
15 the compensation that the member would have received during the
16 purchased period shall be based on the annual rate of compensation of
17 the member immediately prior to the leave of absence."

18 **SECTION 2.** This act becomes effective July 1, 2005, and applies to
19 members who return to service from an approved leave of absence on or after that date.