

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE DRS65383-LL-219* (4/12)

Short Title: Retirees Returning to Work. (Public)

Sponsors: Senators Swindell, Lucas, Atwater, Cowell, Malone, Garwood, Hartsell, Stevens, and Apodaca.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW AFFECTING RETIREES RETURNING TO
3 WORK.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 135-1 is amended by adding a new subdivision to read:

6 "(14a) "Normal retirement age" means the age of 60 or older with 25 or more
7 years of creditable service or the age of 65 or older with five or more
8 years of membership service."

9 **SECTION 2.** G.S. 135-1(20) reads as rewritten:

10 "(20) "Retirement" means the termination of employment and the complete
11 separation from active service with no intent or agreement, express or
12 implied, to return to service. A retirement allowance under the
13 provisions of this Chapter may only be granted upon retirement of a
14 member. In order for a member's retirement to become effective in any
15 month, the member must render no service, including part time,
16 temporary, substitute, or contractor service, at any time during the six
17 months immediately following the effective date of retirement. means:

18 a. In the case of a member who has reached normal retirement
19 age, the commencement of a retirement allowance under the
20 provisions of this Article.

21 b. In the case of a member who has not yet reached normal
22 retirement age, the commencement of a retirement allowance
23 under the provisions of this Article and a complete separation
24 from active service, with no intent or agreement, express or
25 implied, to return to service, and subject to the requirement that
26 the member shall not render any service, whether part-time,

1 temporary, substitute, or contractor service, at any time during
2 the total of 25 working days immediately following the
3 effective date of retirement plus the longer of the number of
4 weeks during each of the previous two years in which there
5 were no paid days of employment."

6 **SECTION 3.(a)** Subsection (d) of Section 28.24 of S.L. 1998-212, as
7 amended by Section 7A.1 of S.L. 2005-144, reads as rewritten:

8 "(d) This section becomes effective January 1, ~~1999, and expires June 30, 2007.~~
9 1999."

10 **SECTION 3.(b)** The introductory language of Section 67 of S.L. 1998-217,
11 as amended by Section 7A.1 of S.L. 2005-144, reads as rewritten:

12 "**SECTION 67.** Effective January 1, 1999, ~~through June 30, 2007,~~ G.S. 135-3(8)c.,
13 as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

14 **SECTION 3.(c)** Subsection (b) of Section 67.1 of S.L. 1998-217, as
15 amended by Section 7A.1 of S.L. 2005-144, reads as rewritten:

16 "(b) This section becomes effective January 1, ~~1999, and expires June 30, 2007.~~
17 1999."

18 **SECTION 3.(d)** Subsection (c) of Section 32.25 of S.L. 2001-424, as
19 amended by Section 7A.1 of S.L. 2005-144, reads as rewritten:

20 "**SECTION 32.25.(c)** This section becomes effective July 1, ~~2001, and expires June~~
21 ~~30, 2007.~~2001."

22 **SECTION 3.(e)** This section becomes effective June 30, 2006.

23 **SECTION 4.** G.S. 135-3(8)c. reads as rewritten:

24 "c. Should a beneficiary who retired on an early or service
25 retirement allowance under this Chapter be reemployed, or
26 otherwise engaged to perform services, by an employer
27 participating in the Retirement System on a part-time,
28 temporary, interim, or on a fee-for-service basis, whether
29 contractual or otherwise, and if such beneficiary earns an
30 amount during the 12-month period immediately following the
31 effective date of retirement or in any calendar year which
32 exceeds fifty percent (50%) of the reported compensation,
33 excluding terminal payments, during the 12 months of service
34 preceding the effective date of retirement, or twenty thousand
35 dollars (\$20,000), whichever is greater, as hereinafter indexed,
36 then the retirement allowance shall be suspended as of the first
37 day of the month following the month in which the
38 reemployment earnings exceed the amount above, for the
39 balance of the calendar year. The retirement allowance of such
40 a beneficiary shall also be suspended as provided in this
41 sub-subdivision if that beneficiary earns in any one month an
42 amount that exceeds sixty percent (60%) of the average
43 reported monthly compensation, excluding terminal payments,
44 earned during the 12 months of service immediately preceding

1 the effective date of retirement, unless the beneficiary's
2 employment resulting in that monthly amount is for a fixed
3 term of no more than six months and is preceded by at least a
4 six-month continuous separation from active service following
5 the beneficiary's retirement. The retirement allowance of the
6 beneficiary shall be reinstated as of January 1 of each year
7 following suspension. The amount that may be earned before
8 suspension shall be increased on January 1 of each year by the
9 ratio of the Consumer Price Index to the Index one year earlier,
10 calculated to the nearest tenth of a percent (1/10 of 1%).

11 The computation of postretirement earnings of a beneficiary
12 under this sub-subdivision, G.S. 135-3(8)c., who ~~has been~~
13 ~~retired at least six months~~ meets either definition of retirement
14 under G.S. 135-1(20) and who, before the effective date of
15 reemployment, has not been employed in any capacity with a
16 public school for at least six months immediately preceding the
17 effective date of reemployment, at any time during the total of
18 25 working days immediately following the effective date of
19 retirement plus the longer of the number of weeks during each
20 of the previous two years in which there were no paid days of
21 employment for that member, shall not include earnings while
22 the beneficiary is employed to teach in a permanent full-time or
23 part-time capacity that exceeds fifty percent (50%) of the
24 applicable workweek in a public school. The Department of
25 Public Instruction shall certify to the Retirement System that a
26 beneficiary is employed to teach by a local school
27 administrative unit under the provisions of this sub-subdivision
28 and as a retired teacher as the term is defined under the
29 provisions of G.S. 115C-325(a)(5a).

30 Beneficiaries employed under this sub-subdivision are not
31 entitled to any benefits otherwise provided under this Chapter
32 as a result of this period of employment."

33 **SECTION 5.** G.S. 115C-325(a)(5a) reads as rewritten:

34 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
35 Employees' Retirement System of North Carolina who ~~has been retired~~
36 ~~at least six months~~, meets either definition of retirement under
37 G.S. 135-1(20), who, before the effective date of reemployment, has
38 not been employed in any capacity for at least six months, immediately
39 preceding the effective date of reemployment, with a public school at
40 any time during the total of 25 working days immediately following
41 the effective date of retirement plus the longer of the number of weeks
42 during each of the previous two years in which there were no paid days
43 of employment for that member, who is determined by a local board of
44 education or a charter school to have had satisfactory performance

1 during the last year of employment by a local board of education or a
2 charter school, and who is employed to teach as provided in
3 G.S. 135-3(8)c. A retired teacher at a school other than a charter
4 school shall be treated the same as a probationary teacher except that
5 (i) a retired teacher is not eligible for career status and (ii) the
6 performance of a retired teacher who had attained career status prior to
7 retirement shall be evaluated in accordance with a local board of
8 education's policies and procedures applicable to career teachers."

9 **SECTION 6.** Section 29.28(f) of S.L. 2005-276 reads as rewritten:

10 **"SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective
11 August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but
12 does not apply to participants in The University of North Carolina Phased Retirement
13 ~~Program until June 30, 2007.~~ Program. The remainder of this section becomes effective
14 June 30, 2005."

15 **SECTION 7.** The University of North Carolina shall establish a normal
16 retirement age for the Optional Retirement Program of either 59½ or 60 years of age
17 and shall limit the University of North Carolina Phased Retirement Program to persons
18 who have reached that normal retirement age.

19 **SECTION 8.** The North Carolina Community College System may establish
20 a phased retirement program for its faculty that functions in a manner similar to The
21 University of North Carolina Phased Retirement Program.

22 **SECTION 9.** This act becomes effective July 1, 2006, but Sections 1
23 through 5 of this act do not apply to participants in The University of North Carolina
24 Phased Retirement Program or to members of the phased retirement program
25 established for the faculty of the North Carolina Community College System under
26 Section 8 of this act.