

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1474*

Short Title: Retirees Returning to Work. (Public)

Sponsors: Senators Swindell, Lucas, Atwater, Cowell, Malone, Garwood, Hartsell, Stevens, Apodaca; Albertson, Bingham, Bland, Boseman, Brown, Dalton, Dannelly, Dorsett, Forrester, Hagan, Jenkins, Rand, Snow, and Tillman.

Referred to: Appropriations/Base Budget.

May 17, 2006

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LAW AFFECTING RETIREES RETURNING TO WORK.

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

1 the total of 25 working days immediately following the
2 effective date of retirement plus the longer of the number of
3 weeks during each of the previous two years in which there
4 were no paid days of employment."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State
34 Employees' Retirement System of North Carolina who ~~has been retired~~
35 ~~at least six months~~, meets either definition of retirement under
36 G.S. 135-1(20), who, before the effective date of reemployment, has
37 not been employed in any capacity for at least six months, immediately
38 preceding the effective date of reemployment, with a public school at
39 any time during the total of 25 working days immediately following
40 the effective date of retirement plus the longer of the number of weeks
41 during each of the previous two years in which there were no paid days
42 of employment for that member, who is determined by a local board of
43 education or a charter school to have had satisfactory performance
44 during the last year of employment by a local board of education or a

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

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

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

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

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

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