

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 153
Committee Substitute Favorable 3/31/11

Short Title: No Public Retirement for Convicted Felons. (Public)

Sponsors:

Referred to:

February 22, 2011

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT A PERSON WHO HAS BEEN CONVICTED OF A FELONY
3 FROM RECEIVING RETIREMENT BENEFITS FROM THE TEACHERS' AND STATE
4 EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENTAL
5 EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL
6 RETIREMENT SYSTEM, OR THE LEGISLATIVE RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** Article 1 of Chapter 135 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 135-18.11. Forfeiture of retirement benefits for certain felonies related to employment**
11 **or holding office.**

12 (a) Except as provided in G.S. 135-4(ii), the Board of Trustees shall not pay any
13 retirement benefits or allowances, except for a return of member contributions plus interest, to
14 any member who is convicted of any felony under federal law or the laws of this State if all of
15 the following apply:

16 (1) The offense is committed while the member is an employee, a teacher, or an
17 elected or appointed officer of a participating employer.

18 (2) The individual's conduct is directly related to the individual's office or
19 employment.

20 (b) Subdivision (a)(2) of this section shall apply to felony convictions where the court
21 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the
22 individual's conduct is directly related to the individual's office or employment."

23 **SECTION 2.** G.S. 135-4 is amended by adding a new subsection to read:

24 "(ii) If a member who is an employee, a teacher, or an officer of a participating employer
25 and has not vested in this System on July 1, 2011, is convicted of an offense listed in
26 G.S. 135-18.11 for acts committed after July 1, 2011, then that member shall forfeit all benefits
27 under this System, except for a return of member contributions plus interest. If a member who
28 is an employee or a teacher and has vested in this System on July 1, 2011, is convicted of an
29 offense listed in G.S. 135-18.11 for acts committed after July 1, 2011, then that member is not
30 entitled to any creditable service that accrued after July 1, 2011."

31 **SECTION 3.** Article 3 of Chapter 128 of the General Statutes is amended by
32 adding a new section to read:

33 "**§ 128-38.5. Forfeiture of retirement benefits for certain felonies related to employment**
34 **or holding office.**

35 (a) Except as provided in G.S. 128-26(x), the Board of Trustees shall not pay any
36 retirement benefits or allowances, except for a return of member contributions plus interest, to



1 any member who is convicted of any felony under federal law or the laws of this State if all of
2 the following apply:

3 (1) The offense is committed while the member is an employee or an elected or
4 appointed officer of a participating employer.

5 (2) The individual's conduct is directly related to the individual's office or
6 employment.

7 (b) Subdivision (a)(2) of this section shall apply to felony convictions where the court
8 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the
9 individual's conduct is directly related to the individual's office or employment."

10 **SECTION 4.** G.S. 128-26 is amended by adding a new subsection to read:

11 "(x) If a member who is an employee or an elected or appointed officer of the employer
12 and has not vested in this System on July 1, 2011, is convicted of an offense listed in
13 G.S. 126-38.5 for acts committed after July 1, 2011, then that member shall forfeit all benefits
14 under this System, except for a return of member contributions plus interest. If a member who
15 is an employee or a teacher and has vested in this System on July 1, 2011, is convicted of an
16 offense listed in G.S. 126-38.5 for acts committed after July 1, 2011, then that member is not
17 entitled to any creditable service that accrued after July 1, 2011."

18 **SECTION 5.** Article 4 of Chapter 135 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 135-75.2. Forfeiture of retirement benefits for certain felonies related to employment**
21 **or holding office.**

22 (a) Except as provided in G.S. 135-56(j), the Board of Trustees shall not pay any
23 retirement benefits or allowances, except for a return of member contributions plus interest, to
24 any member who is convicted of any felony under federal law or the laws of this State if all of
25 the following apply:

26 (1) The offense is committed while the member is an employee, a teacher, or an
27 officer of a participating employer.

28 (2) The individual's conduct is directly related to the individual's office or
29 employment.

30 (b) Subdivision (a)(2) of this section shall apply to felony convictions where the court
31 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the
32 individual's conduct is directly related to the individual's office or employment."

33 **SECTION 6.** G.S. 135-56 is amended by adding a new subsection to read:

34 "(j) If a member who is a judge, district attorney, clerk of superior court, public
35 defender, or the Director of Indigent Defense Services and has not vested in this System on
36 July 1, 2011, is convicted of an offense listed in G.S. 135-75.2 for acts committed after July 1,
37 2011, then that member shall forfeit all benefits under this System, except for a return of
38 member contributions plus interest. If a member who is a judge, district attorney, clerk of
39 superior court, public defender, or the Director of Indigent Defense Services and has vested in
40 this System on July 1, 2011, is convicted of an offense listed in G.S. 135-75.2 for acts
41 committed after July 1, 2011, then that member is not entitled to any creditable service that
42 accrued after July 1, 2011."

43 **SECTION 7.** Article 1A of Chapter 120 of the General Statutes is amended by
44 adding a new section to read:

45 **"§ 120-4.34. Forfeiture of retirement benefits for certain felonies related to employment**
46 **or holding office.**

47 (a) Except as provided in G.S. 120-4.12(g), the Board of Trustees shall not pay any
48 retirement benefits or allowances, except for a return of member contributions plus interest, to
49 any member who is convicted of any felony under federal law or the laws of this State if all of
50 the following apply:

1 (1) The offense is committed while the member is an employee, a teacher, or an
2 officer of a participating employer.

3 (2) The individual's conduct is directly related to the individual's office or
4 employment.

5 (b) Subdivision (a)(2) of this section shall apply to felony convictions where the court
6 finds under G.S. 15A-1340.16(d)(9) or other applicable state or federal procedure that the
7 individual's conduct is directly related to the individual's office or employment."

8 **SECTION 8.** G.S. 120-4.12 is amended by adding a new subsection to read:

9 "(g) If a member who has not vested in this System on July 1, 2011, is convicted of an
10 offense listed in G.S. 120-4.34 for acts committed after July 1, 2011, then that member shall
11 forfeit all benefits under this System, except for a return of member contributions plus interest.
12 If a member who is a present member of the General Assembly and has vested in this System
13 on July 1, 2011, is convicted of an offense listed in G.S. 120-4.34 for acts committed after July
14 1, 2011, then that member is not entitled to any creditable service that accrued after July 1,
15 2011."

16 **SECTION 9.** G.S. 15A-1340.16(d)(9) reads as rewritten:

17 "(d) Aggravating Factors. – The following are aggravating factors:

18 ...

19 (9) The defendant held public elected or appointed office or public employment
20 at the time of the offense and the offense directly related to the conduct of
21 the ~~office~~ office or employment.

22 "

23 **SECTION 10.** G.S. 15A-1340.16 is amended by adding a new subsection to read:

24 "(f) If the court determines that an aggravating factor under subdivision (d)(9) of this
25 section has been proven, the court shall notify the State Treasurer of the fact of the conviction
26 as well as the finding of the aggravating factor. The indictment charging the defendant with the
27 underlying offense must include notice that the State seeks to prove the defendant acted in
28 accordance with subdivision (d)(9) of this section and that the State will seek to prove that as
29 an aggravating factor."

30 **SECTION 11.** The State Treasurer shall negotiate a memorandum of agreement
31 with the United States Attorneys for the Eastern, Middle, and Western Districts of North
32 Carolina whereby the prosecutors will notify the State Treasurer of convictions under
33 G.S. 135-18.11(b), 128-38.5(b), 135-75.2(b), and 120-4.34(b).

34 **SECTION 12.** This act becomes effective December 1, 2011, and applies to
35 offenses committed on or after that date.