

GENERAL ASSEMBLY OF NORTH CAROLINA
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HOUSE DRH40128-LL-33 (01/16)

Short Title: Agency Participation Procedures Act of 2015.-AB (Public)

Sponsors: Representatives Ross, Gill, Goodman, and McNeill (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT THE AGENCY PARTICIPATION PROCEDURES ACT OF 2015.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5.3 reads as rewritten:

"§ 135-5.3. **Optional participation for charter schools operated by private nonprofit corporations.**

(a) The board of directors of each charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing, ~~shall be made no later than 30 days after this section becomes law,~~ and shall be filed with the Retirement System and with the State Board of Education. For each charter school employee who is employed on or before the date the board makes the election to participate, membership in the System is effective as of the date the board makes the election to participate. For each charter school employee who is employed after the date the board makes the election, membership in the System is effective as of the date of that employee's entry into eligible service. This subsection applies only to charter schools that received State Board of Education approval under [former] G.S. 115C-238.29D in 1997 or 1998.

~~(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-218.15, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article.~~ The board of directors of a charter school operated by a private nonprofit corporation shall elect whether to seek to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive State Board of Education approval under [former] G.S. 115C-238.29D [or G.S. 115C-218.5] after 1998.

(b1) A charter school seeking to become a participating employer in the Retirement System shall undergo an actuarial, financial, and legal review as required by the Board of Trustees. Upon acceptance by the Board of Trustees of the application to become a participating employer and acknowledgement of the acceptance of the withdrawal liability by charter school, the charter school shall be a participating employer in the Retirement System.

(c) A charter school board's election to become a participating employer in the Retirement System under this section is irrevocable and shall require all eligible employees of the charter school to participate.



1 (d) No retirement benefit, death benefit, or other benefit payable under the Retirement
2 System shall be paid by the State of North Carolina or the Board of Trustees of the Teachers'
3 and State Employees' Retirement System on account of employment with a charter school with
4 respect to any employee, or with respect to any beneficiary of an employee, of a charter school
5 whose board of directors does not elect to become a participating employer in the Retirement
6 System under this section.

7 (e) The board of directors of each charter school shall notify each of its employees as to
8 whether the board elected to become a participating employer in the Retirement System under
9 this section. This notification shall be in writing and shall be provided within 30 days of the
10 board's election or at the time an initial offer for employment is made, whichever occurs last. If
11 the board did not elect to join the Retirement System, the notice shall include a statement that
12 the employee shall have no legal recourse against the board or the State for any possible credit
13 or reimbursement under the Retirement System. The employee shall provide written
14 acknowledgment of the employee's receipt of the notification under this subsection.

15 (f) The board of directors of each charter school may elect to revoke its decision to be a
16 participating employer in the Retirement System for all of its employees. In order to make such
17 a revocation, a board shall:

18 (1) Communicate its decision and provide the Retirement Systems Division of
19 the State Treasurer's Office with copies of any actions by the Board relating
20 to this election.

21 (2) Notify its employees at least seven days prior to any vote by the Board on
22 revoking the election that, effective with the charter school's withdrawal
23 from the Retirement System, those employees will not earn any additional
24 creditable service in the Retirement System.

25 (3) Make a lump sum payment of the withdrawal liability required under
26 G.S. 135-8(i)."

27 **SECTION 2.** G.S. 120-114 reads as rewritten:

28 "**§ 120-114. Actuarial ~~notes~~; Retirement System advisory letters and cost estimates.**

29 (a) Every bill, joint resolution, and simple or concurrent resolution introduced in the
30 General Assembly proposing any change in the law relative to any State, municipal, or other
31 retirement system, funded in whole or in part out of public funds, or any program of hospital,
32 medical, disability, or related benefits provided for teachers and State employees, funded in
33 whole or in part by State funds, shall have attached to it at the time of its consideration by any
34 committee of either house of the General Assembly a brief explanatory statement or note which
35 shall include a reliable estimate of the financial and actuarial effect of the proposed change in
36 any such retirement system or program of hospital, medical, disability, or related benefits. This
37 actuarial note shall be attached to the original of each proposed bill or resolution which is
38 reported favorably by any committee of either house of the General Assembly, but shall be
39 separate therefrom, shall be clearly designated as an actuarial note and shall not constitute a
40 part of the law or other provisions or expression of legislative intent proposed by the bill or
41 resolution.

42 (b) The author of each bill or resolution shall present a copy of the bill or resolution,
43 with his request for an actuarial note, to the Fiscal Research Division which shall have the duty
44 to prepare said actuarial note as promptly as possible. Actuarial notes shall be prepared and
45 transmitted to the author or authors no later than two weeks after the request for the actuarial
46 note is made, unless an extension of time is agreed to by the author or authors as being
47 necessary in preparation of the note. Any person who signs an actuarial note knowing it to
48 contain false information shall be fined not more than five hundred dollars (\$500.00) or
49 imprisoned not more than six months, or both.

50 (c) The author of each bill or resolution shall also present a copy of the bill or
51 resolution to any actuary employed by the retirement system, or to any actuary employed by a

1 program of hospital, medical, disability, or related benefits provided for teachers and State
2 employees, affected by the bill or resolution in question. Actuarial notes shall be prepared and
3 transmitted to the author or authors of the measure no later than two weeks after the request for
4 the actuarial note is received, unless an extension of time is agreed to by the author or authors
5 as being necessary in preparation of the note. Any person who signs an actuarial note knowing
6 it to contain false information shall be fined not more than five hundred dollars (\$500.00) or
7 imprisoned not more than six months, or both. The provisions of this subsection may be waived
8 for any local government retirement or pension plans not administered by the State, and for any
9 local government program of hospital, medical, disability, or related benefits for local
10 government employees not administered by the State.

11 (d) The note shall be factual and shall, if possible, provide a reliable estimate of both
12 the immediate effect and, if determinable or reasonably foreseeable, the long range fiscal and
13 actuarial effect of the measure. If, after careful investigation, it is determined that no dollar
14 estimate is possible, the note shall contain a statement to that effect, setting forth the reasons
15 why no dollar estimate can be given. No comment or opinion shall be included in the actuarial
16 note with regard to the merits of the measure for which the note is prepared. However,
17 technical and mechanical defects may be noted.

18 (e) At any time any committee of either house reports any legislative instrument, to
19 which an actuarial note or notes are attached at the time of committee consideration, with any
20 amendment of such nature as would substantially affect the cost to or the revenues of any
21 retirement system, or program of hospital, medical, disability, or related benefits for teachers
22 and State employees, as stated in the actuarial note or notes attached to the measure at the time
23 of such consideration, it shall be the responsibility of the chairman of the committee reporting
24 such instrument to obtain from the Fiscal Research Division an actuarial note of the fiscal and
25 actuarial effect of the change proposed by the amendment reported. Such actuarial note shall be
26 attached to the report of the committee on the measure as a supplement thereto. A floor
27 amendment to a bill or resolution to which an actuarial note was attached at the time of
28 committee consideration of the bill or resolution shall not be in order, if the amendment affects
29 the costs to or the revenues of a retirement system, or program of hospital, medical, disability,
30 or related benefits provided for teachers and State employees, unless the amendment is
31 accompanied by an actuarial note, prepared by the Fiscal Research Division, as to the actuarial
32 effect of the amendment.

33 (f) In addition to the other requirements of this section, if a bill or resolution
34 contemplates adding a public agency as a participating employer in the Teacher's and State
35 Employees' Retirement System or the Local Governmental Employees Retirement System, the
36 Fiscal Research Division shall obtain an advisory letter from the Attorney General regarding
37 whether the agency is eligible for participation.

38 (g) In addition to the other requirements of this section, if a bill or resolution
39 contemplates removing a public agency as a participating employer from the Teacher's and
40 State Employees' Retirement System or the Local Governmental Employees Retirement
41 System, the Fiscal Research Division shall obtain an estimate of cost of the withdrawal liability
42 the agency would owe under procedures established by the Boards of Trustees of the
43 Retirement Systems."

44 **SECTION 3.(a)** G.S. 135-8 is amended by adding a new subsection to read:

45 "(i) Payment to Cease Participation. – Any employing unit that is allowed to cease
46 participation in the Retirement System by the General Assembly or as otherwise provided in
47 this Chapter shall make a lump sum payment to the Teacher's and State Employees' Retirement
48 System equal to the actuarial present value of the additional liabilities imposed upon the
49 System, to be determined by the System's consulting actuary, plus an administrative fee to be
50 determined by the Board of Trustees."

51 **SECTION 3.(b)** G.S. 128-30 is amended by adding a new subsection to read:

1 "(i) Payment to Cease Participation. – Any employing unit that is allowed to cease
2 participation in the Retirement System by the General Assembly shall make a lump sum
3 payment to the Local Governmental Employees' Retirement System equal to the actuarial
4 present value of the additional liabilities imposed upon the System, to be determined by the
5 System's consulting actuary, plus an administrative fee to be determined by the Board of
6 Trustees."

7 **SECTION 4.** This act becomes effective July 1, 2015.