

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1324

Short Title: Amend Retirement Definitions.

(Public)

Sponsors: Representative Hackney.

Referred to: Pensions and Retirement.

April 12, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO AMEND DEFINITIONS APPLYING TO THE TEACHERS' AND
3 STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL
4 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM IN ORDER TO
5 COMPLY WITH RECENT UNITED STATES DEPARTMENT OF LABOR
6 REGULATIONS REQUIRING THAT CERTAIN VISA HOLDERS BE OFFERED
7 RETIREMENT BENEFITS AND ELIGIBILITY FOR RETIREMENT BENEFITS
8 ON THE SAME BASIS AS UNITED STATES CITIZENS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 128-21(10) reads as rewritten:

11 "(10) "Employee" shall mean any person who is regularly employed in the
12 service of and whose salary or compensation is paid by the employer
13 as defined in subdivision (11) of this section, whether employed or
14 appointed for stated terms or otherwise, except teachers in the public
15 schools and except such employees who hold office by popular
16 election as are not required to devote a major portion of their time to
17 the duties of their office. "Employee" also means all full-time, paid
18 firemen who are employed by any fire department that serves a city or
19 county or any part of a city or county and that is supported in whole or
20 in part by municipal or county funds. In all cases of doubt the Board of
21 Trustees shall decide who is an employee. On and after August 1,
22 2001, a person who is a nonresident alien and who otherwise meets the
23 requirements of this subdivision shall not be excluded from the
24 definition of "employee" solely because the person holds a temporary
25 or time-limited visa."

26 **SECTION 2.** G.S. 135-1(10) reads as rewritten:

27 "(10) "Employee" shall mean all full-time employees, agents or officers of
28 the State of North Carolina or any of its departments, bureaus and

1 institutions other than educational, whether such employees are
2 elected, appointed or employed: Provided that the term "employee"
3 shall not include any person who is a member of the Consolidated
4 Judicial Retirement System, any member of the General Assembly or
5 any part-time or temporary employee. Notwithstanding any other
6 provision of law, "employee" shall include all employees of the
7 General Assembly except participants in the Legislative Intern
8 Program, pages, and reemployed beneficiaries in receipt of a monthly
9 retirement allowance under this Chapter. In all cases of doubt, the
10 Board of Trustees shall determine whether any person is an employee
11 as defined in this Chapter. "Employee" shall also mean every full-time
12 civilian employee of the army national guard and air national guard of
13 this State who is employed pursuant to section 709 of Title 32 of the
14 United States Code and paid from federal appropriated funds, but held
15 by the federal authorities not to be a federal employee: Provided,
16 however, that the authority or agency paying the salaries of such
17 employees shall deduct or cause to be deducted from each employee's
18 salary the employee's contribution in accordance with applicable
19 provisions of G.S. 135-8 and remit the same, either directly or
20 indirectly, to the Retirement System; coverage of employees described
21 in this sentence shall commence upon the first day of the calendar year
22 or fiscal year, whichever is earlier, next following the date of
23 execution of an agreement between the Secretary of Defense of the
24 United States and the Adjutant General of the State acting for the
25 Governor in behalf of the State, but no credit shall be allowed pursuant
26 to this sentence for any service previously rendered in the
27 above-described capacity as a civilian employee of the national guard:
28 Provided, further, that the Adjutant General, in his discretion, may
29 terminate the Retirement System coverage of the above-described
30 national guard employees if a federal retirement system is established
31 for such employees and the Adjutant General elects to secure coverage
32 of such employees under such federal retirement system. Any full-time
33 civilian employee of the national guard described above who is now or
34 hereafter may become a member of the Retirement System may secure
35 Retirement System credit for such service as a national guard civilian
36 employee for the period preceding the time when such employees
37 became eligible for Retirement System coverage by paying to the
38 Retirement System an amount equal to that which would have
39 constituted employee contributions if he had been a member during the
40 years of ineligibility, plus interest. Employees of State agencies,
41 departments, institutions, boards, and commissions who are employed
42 in permanent job positions on a recurring basis and who work 30 or
43 more hours per week for nine or more months per calendar year are
44 covered by the provisions of this subdivision. On and after August 1,

1 2001, a person who is a nonresident alien and who otherwise meets the
2 requirements of this subdivision shall not be excluded from the
3 definition of "employee" solely because the person holds a temporary
4 or time-limited visa."

5 **SECTION 3.** G.S. 135-1(25) reads as rewritten:

6 "(25) "Teacher" shall mean any teacher, helping teacher, librarian, principal,
7 supervisor, superintendent of public schools or any full-time
8 employee, city or county, superintendent of public instruction, or any
9 full-time employee of Department of Public Instruction, president,
10 dean or teacher, or any full-time employee in any educational
11 institution supported by and under the control of the State: Provided,
12 that the term "teacher" shall not include any part-time, temporary, or
13 substitute teacher or employee, and shall not include those
14 participating in an optional retirement program provided for in G.S.
15 135-5.1. In all cases of doubt, the Board of Trustees, hereinafter
16 [hereinbefore] defined, shall determine whether any person is a teacher
17 as defined in this Chapter. On and after August 1, 2001, a person who
18 is a nonresident alien and who otherwise meets the requirements of
19 this subdivision shall not be excluded from the definition of "teacher"
20 solely because the person holds a temporary or time-limited visa."

21 **SECTION 4.** This act becomes effective August 1, 2001.