

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1324
Committee Substitute Favorable 5/29/01

Short Title: Amend Retirement Definitions.

(Public)

Sponsors:

Referred to:

April 12, 2001

1 A BILL TO BE ENTITLED
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 nonimmigrant alien and who otherwise meets
23 the 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
29 institutions other than educational, whether such employees are

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

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

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

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

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