

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2009**

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**SENATE BILL 204**

Short Title: Retired Nurses Return to Work. (Public)

Sponsors: Senators Purcell; Albertson, Allran, Atwater, Berger of Franklin, Bingham, Boseman, Brown, Clodfelter, Dannelly, Davis, Foriest, Forrester, Garrou, Goss, Graham, Hartsell, Kinnaird, Malone, McKissick, Nesbitt, Preston, Queen, Rand, Rouzer, Snow, Stein, Swindell, and Tillman.

Referred to: Pensions & Retirement & Aging.

February 18, 2009

A BILL TO BE ENTITLED

AN ACT TO ENABLE RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO RETURN TO EMPLOYMENT AS NURSING INSTRUCTORS WITHOUT LOSING RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, who retired on or before October 1, 2007, and who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a



1 permanent full-time or part-time capacity that exceeds fifty percent  
2 (50%) of the applicable workweek in a public school. The  
3 Department of Public Instruction shall certify to the Retirement  
4 System that a beneficiary is employed to teach by a local school  
5 administrative unit under the provisions of this sub-subdivision and  
6 as a retired teacher as the term is defined under the provisions of  
7 G.S. 115C-325(a)(5a).

8 The computation of postretirement earnings of a beneficiary  
9 under this sub-subdivision, who retired after October 1, 2007, after  
10 attaining (i) the age of at least 65 with five years of creditable  
11 service; or (ii) the age of at least 60 with 25 years of creditable  
12 service; or (iii) 30 years of service; and who has been retired at least  
13 six months and has not been employed in any capacity with a public  
14 school for at least six months immediately preceding the effective  
15 date of reemployment, shall not include earnings while the  
16 beneficiary is employed to teach in a permanent full-time or  
17 part-time capacity that exceeds fifty percent (50%) of the applicable  
18 workweek in a public school. The Department of Public Instruction  
19 shall certify to the Retirement System that a beneficiary is employed  
20 to teach by a local school administrative unit under the provisions of  
21 this sub-subdivision and as a retired teacher as the term is defined  
22 under the provisions of G.S. 115C-325(a)(5a).

23 The computation of postretirement earnings of a beneficiary  
24 under this sub-subdivision who retired on or before June 1, 2009,  
25 regardless of age or years of creditable service, or who retires on or  
26 after July 1, 2009, after attaining (i) the age of at least 65 with five  
27 years of creditable service; or (ii) the age of at least 60 with 25 years  
28 of creditable service; or (iii) 30 years of service; and who has been  
29 retired at least six months and has not been employed in any capacity  
30 with a State-supported community college or a State-supported  
31 university for at least six months immediately preceding the effective  
32 date of reemployment, shall not include earnings while the  
33 beneficiary is employed to teach in a permanent full-time or  
34 part-time capacity that exceeds fifty percent (50%) of the applicable  
35 workweek as a nursing instructor in a certified nursing program for a  
36 maximum period of three years.

37 In order for a retired nursing instructor to be rehired, the  
38 community college or university must certify to the Teachers' and  
39 State Employees' Retirement System that it has a shortage of  
40 qualified nursing instructors, and must:

- 41 1. Make a good faith effort to fill positions with qualified  
42 nursing instructors who are not retirees;
- 43 2. Post the vacancy or vacancies for at least two months;
- 44 3. Solicit applications through local newspapers, other media,  
45 and nursing education programs; and
- 46 4. Determine that there is an insufficient number of eligible  
47 applicants for the advertised position or positions.

48 The North Carolina Community College System and The University  
49 of North Carolina shall certify to the Retirement System that a  
50 beneficiary is employed to teach as a nursing instructor with a

1                   State-supported community college or a State-supported university  
2                   under the provisions of this sub-subdivision.

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

6                   **SECTION 2.** Notwithstanding any other provision of law, effective July 1, 2009,  
7                   each community college or university employing a retired nursing instructor under the  
8                   provisions of G.S. 135-3(8)c. shall pay to the Teachers' and State Employees' Retirement  
9                   System a Reemployed Nurse Contribution Rate of eleven and seventy-hundredths percent  
10                  (11.70%) as a percentage of covered salaries being paid to the retired nursing instructors who  
11                  are exempt from the earnings cap under this act. Each community college or university shall  
12                  report monthly to the Retirement Systems Division on payments made pursuant to this section.

13                  **SECTION 3.** The North Carolina Community College System and The University  
14                  of North Carolina shall report in writing to the General Assembly by January 1, 2011, on  
15                  whether the reemployment of retired nursing instructors under this act is effectively assisting  
16                  the community colleges and the universities to address the shortage of qualified nursing  
17                  instructors.

18                  **SECTION 4.** This act becomes effective July 1, 2009, and expires June 30, 2013.