

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 700

Short Title: Auto-Enroll in Supplemental Retirement Plan. (Public)

Sponsors: Representative Bordsen (Primary Sponsor).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: State Personnel.

April 7, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE PARTICIPATING EMPLOYERS TO AUTO-ENROLL NEW MEMBERS OF THE STATE RETIREMENT SYSTEMS IN A SUPPLEMENTAL RETIREMENT PLAN WITH THE PROVISION THAT THESE EMPLOYEES MAY OPT OUT OF THE PLAN WITHIN 90 DAYS WITH A FULL RETURN OF ANY CONTRIBUTIONS MADE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-90(b) reads as rewritten:

"(b) The purpose of the Article is to attract and hold qualified employees and officials of the State of North Carolina and its political subdivisions by ~~permitting~~ encouraging them to ~~participate~~ participate, by auto-enrollment or otherwise, in a profit sharing or salary reduction form of deferred compensation which will provide supplemental retirement income payments upon retirement, disability, termination, hardship, and death as allowed under section 401(k), or any other relevant section, of the Internal Revenue Code of 1954 as amended. As used in this Article, the term "profit" means the excess revenue over expenditures prior to the expenditure of the amount which may be optionally made available for employees to be placed in trust by the State and its political subdivisions on behalf of the employees and officials covered by this Article."

SECTION 2. G.S. 135-92(a) reads as rewritten:

"(a) The membership eligibility of the Supplemental Retirement Income Plan shall consist of any of the following who either voluntarily elect to ~~enroll~~: enroll or decide not to opt out of auto-enrollment:

- (1) Members of the Teachers' and State Employees' Retirement System; and
- (2) Members of the Consolidated Judicial Retirement System; and
- (3) Members of the Legislative Retirement System; and
- (4) Members of the Local Governmental Employees' Retirement System; and
- (5) Law enforcement officers as defined under G.S. 143-166.30 and G.S. 143-166.50; and
- (6) Participants in the Optional Retirement Program provided for under G.S. 135-5.1; and
- (7) Members of retirement and pension plans sponsored by political subdivisions of the State so long as such plans are qualified under Section 401(a) of the Internal Revenue Code of 1986 as amended from time to time."

SECTION 3. G.S. 135-93 reads as rewritten:

"§ 135-93. Contributions.



1 (a) Each member may elect to reduce his compensation by the amount of his
2 contribution to the Supplemental Retirement Income Plan and that amount shall be held in the
3 member's account. Members electing such a reduction in compensation may authorize payroll
4 deductions for making contributions to the Plan. Any person who becomes a member on or
5 after July 1, 2011, and who makes this election within 30 days of the effective date of
6 employment will not be subject to subsection (c) of this section.

7 (b) The State and any of its political subdivisions may make contributions to the
8 Supplemental Retirement Income Plan on behalf of any of its members, provided these
9 contributions are nondiscriminatory in accordance with the Internal Revenue Code of 1954 as
10 amended, and are duly appropriated by their governing bodies, and the contributions are held in
11 the member's account. Employer contributions to the Plan are declared expenditures for a
12 public purpose.

13 (b1) All persons who become members on or after January 1, 2012, and are employees of
14 employers participating in the Supplemental Retirement Income Plan shall, during the second
15 month of their employment, be automatically enrolled in the Plan unless they have already
16 voluntarily commenced their own contributions pursuant to subsection (a) of this section.
17 Whether all such members are enrolled under this provision in the 401(k) Plan or in the 457
18 Plan shall be decided by each employer. Each employer shall elect between these two Plans,
19 shall use the elected Plan for all new employees, and shall report its choice of Plan to the
20 Retirement Systems Division no later than October 1, 2011. Each employer's choice of Plan for
21 automatic enrollment shall be irrevocable.

22 Members enrolled under this subsection shall be subject to the following:

23 (1) Each member shall have the member's compensation reduced automatically
24 by twenty dollars (\$20.00) each month, which shall be deposited in the
25 member's account.

26 (2) During the 90 days immediately following the establishment of a member's
27 account, during which the member's monthly contributions to the member's
28 individual account shall be invested in a money market fund, each member
29 shall have the option to cancel the enrollment and have all funds in the
30 account returned to the member, on a pre-tax basis, or rolled over into
31 another tax-qualified retirement account.

32 (3) Once automatically enrolled, members shall also have the option to move
33 out of the default investment account, into investment funds of their own
34 choosing.

35 (4) Following the expiration of the 90-day opt-out period under subdivision (2)
36 of this subsection, the default investment account for automatically enrolled
37 members shall be as follows:

38 a. For members who are employees of employers who have elected the
39 401(k) Plan, each member shall be placed in the appropriate of four
40 moderate Goalmaker portfolios, based upon the number of years
41 between the member's hiring date and a default retirement age of 62.

42 b. For members who are employees of employers who have elected the
43 457 Plan, each member shall be placed in the Reality Investing
44 program, by utilizing a "Guidance" level that will suggest an optimal
45 portfolio based on individual factors.

46 (c) The Department of State Treasurer and Board of Trustees shall establish maximum
47 annual additions that may be made to a member's account and provide for multiple plan
48 reductions in accordance with the Internal Revenue Code of 1954 as amended."

49 **SECTION 4.** G.S. 143B-426.24(h1) reads as rewritten:

50 "(h1) Notwithstanding any other law, an employee of any county or municipality, an
51 employee of the North Carolina Community College System, or an employee of any political

1 subdivision of the State may participate in any 457 Plan adopted by the State, with the consent
2 of the Supplemental Retirement Board and with the consent of the proper governing authority
3 of such county, municipality, community college, or political subdivision of the State where
4 such employee is employed. Each person who becomes a member on or after January 1, 2012,
5 who is subject to the auto-enrollment requirements of G.S. 135-93, and whose employer has
6 elected the 457 Plan as the default Plan shall also be automatically enrolled in the Plan
7 consistent with the percentage, opt-out provision, initial money market, and default investment
8 accounts and the option to transfer to a different investment account as specified in
9 G.S. 135-93(c)."

10 **SECTION 5.** This act becomes effective July 1, 2011.