

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 1056

Short Title: Ret. & Treasury Admin. Changes Act of 2022.-AB (Public)

Sponsors: Representatives McNeill and C. Smith (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, Rules, Calendar, and Operations of the House

May 26, 2022

A BILL TO BE ENTITLED

1 AN ACT CONCERNING ADMINISTRATIVE CHANGES RELATED TO THE USE OF
2 EQUITABLE METHODS OF OFFSET FOR CALCULATING BENEFITS UNDER THE
3 DISABILITY INCOME PLAN OF NORTH CAROLINA FOR TEACHERS AND STATE
4 EMPLOYEES RECEIVING WORKERS' COMPENSATION MONTHLY BENEFITS
5 AND LUMP SUM PAYMENTS; AN EXCEPTION TO THE IRREVOCABLE ELECTION
6 TO TRANSFER ACCUMULATED CONTRIBUTIONS FROM SUPPLEMENTAL
7 RETIREMENT PLANS TO THE TEACHERS' AND STATE EMPLOYEES'
8 RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL EMPLOYEES'
9 RETIREMENT SYSTEM; THE TREATMENT OF INACTIVE EMPLOYERS AND
10 DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE
11 EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL
12 EMPLOYEES' RETIREMENT SYSTEM; ESTABLISHMENT OF A DEFAULT OPTION
13 FOR EMPLOYING UNITS THAT FAIL TO SELECT AN OPTION FOR THE TRANSFER
14 OF REMAINING ASSETS UPON THE DISCONTINUATION OF DEPARTMENT OF
15 STATE TREASURER-SPONSORED 403(B) PLANS; CLARIFICATION OF THE
16 OPERATIONALIZATION OF THE NON-ASSIGNABILITY OF PUBLIC SAFETY
17 EMPLOYEES' LINE OF DUTY DEATH BENEFITS; ELIGIBILITY FOR LONG-TERM
18 DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE EMPLOYEES'
19 RETIREMENT SYSTEM; SIGNATURE REQUIREMENTS FOR PROPERTY FINDER
20 AGREEMENTS; AND CLARIFICATION OF LOCAL GOVERNMENT COMMISSION
21 APPROVAL OF CERTAIN BORROWING CONTRACTS.

22 The General Assembly of North Carolina enacts:

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25 **PART I. CHANGES RELATED TO THE USE OF EQUITABLE METHODS OF**
26 **OFFSET FOR CALCULATING BENEFITS UNDER THE DISABILITY INCOME**
27 **PLAN OF NORTH CAROLINA FOR TEACHERS AND STATE EMPLOYEES**
28 **RECEIVING WORKERS' COMPENSATION MONTHLY BENEFITS AND LUMP**
29 **SUM PAYMENTS**

30 **SECTION 1.1.(a)** G.S. 135-106 is amended by adding a new subsection to read:

31 "(b1) For purposes of reducing the amount of the long-term disability benefit to which a
32 participant or beneficiary is entitled while receiving workers' compensation benefits, all of the
33 following apply:



- 1 (1) If the participant or beneficiary is entitled to a weekly workers' compensation
2 payment, the monthly payment for workers' compensation shall be determined
3 by multiplying the weekly payment by 52 and dividing by 12 and the
4 long-term disability benefit shall be reduced by the monthly payment for
5 workers' compensation effective as of the first of the month following the
6 month of initial entitlement for workers' compensation.
- 7 (2) If the participant or beneficiary is entitled to a lump sum workers'
8 compensation payment equal to a stated weekly or monthly amount for a given
9 number of weeks or months, the monthly payment for workers' compensation
10 shall be determined using the stated weekly or monthly amount and the
11 long-term disability benefit shall be reduced by the monthly payment for
12 workers' compensation effective as of the first of the month following the
13 month of the lump sum payment.
- 14 (3) If the participant or beneficiary is entitled to a lump sum workers'
15 compensation payment that is not in reference to a stated weekly or monthly
16 amount, the monthly payment for workers' compensation shall be determined
17 by dividing the lump sum by 500 weeks to arrive at a weekly payment, then
18 multiplying by 52 and dividing by 12 and the long-term disability benefit shall
19 be reduced by the monthly payment for workers' compensation effective as of
20 the first of the month following the month of the lump sum payment.
- 21 (4) In the case of monthly reduction in the long-term disability benefit arising
22 from a lump sum workers' compensation payment, once the reductions,
23 without interest, have totaled the entirety of the lump sum payment, the
24 member may contact the Retirement Systems Division to request to cease the
25 monthly payment reduction and the Retirement Systems Division shall cease
26 the reduction after verifying that the reductions have totaled the entirety of the
27 lump sum payment. If the Retirement Systems Division determines that the
28 total reductions exceeded the lump sum payment, the Retirement Systems
29 Division shall distribute the excess amount to the member in a lump sum
30 payment."

31 **SECTION 1.1.(b)** This Part applies to participants or beneficiaries who become
32 entitled to receive workers' compensation benefits on or after July 1, 2022.
33

34 **PART II. CHANGES RELATED TO AN EXCEPTION TO THE IRREVOCABLE**
35 **ELECTION TO TRANSFER ACCUMULATED CONTRIBUTIONS FROM**
36 **SUPPLEMENTAL RETIREMENT PLANS TO THE TEACHERS' AND STATE**
37 **EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL**
38 **EMPLOYEES' RETIREMENT SYSTEM**

39 **SECTION 2.1.** G.S. 135-5(m1) reads as rewritten:

40 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
41 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
42 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
43 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
44 this Retirement System and receive, in addition to his basic service, early or disability retirement
45 allowance, a special retirement allowance which shall be based upon his eligible accumulated
46 account balance at the date of the transfer of the assets to this System. For the purpose of
47 determining the special retirement allowance, the Board of Trustees shall adopt straight life
48 annuity factors on the basis of mortality tables, such other tables as may be necessary and the
49 interest assumption rate recommended by the actuary based upon actual experience including an
50 assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees
51 shall modify such factors every five years, as shall be deemed necessary, based upon the five

1 year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers
2 his eligible accumulated contributions from the Supplemental Retirement Income Plan of North
3 Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement
4 allowance the same as if that special retirement allowance had been paid directly by the
5 Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees'
6 Retirement System shall be responsible to determine the taxable amount, if any, and report
7 accordingly. For transfers made on or after July 1, 2022, if, subsequent to the member's election,
8 the Board of Trustees determines that (i) the member was ineligible for the election or (ii) the
9 election was impermissible for any reason under federal or State law, then no special retirement
10 allowance shall be paid to the member pursuant to this subsection; the member shall return to the
11 Retirement System any amount already paid from the Retirement System as a special retirement
12 allowance; and the Retirement System shall return the transfer amount to the source of the
13 transfer, including any earnings adjustment that may be required under federal law or Internal
14 Revenue Service guidance. If the Retirement System is unable to return the amount to the account
15 from which it originated, the member may designate another eligible account under the transferor
16 plan or receive a lump sum distribution paid directly to the member if the member would
17 otherwise be eligible for a distribution under the transferor plan at such time."

18 **SECTION 2.2.** G.S. 135-5(m2) reads as rewritten:

19 "(m2) Special Retirement Allowance. – At any time coincident with or following retirement,
20 a member may make a one-time, irrevocable election to transfer any portion of the member's
21 eligible accumulated contributions, not including any Roth after-tax contributions and the
22 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North
23 Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive,
24 in addition to the member's basic service, early or disability retirement allowance, a special
25 retirement allowance which shall be based upon the member's transferred balance. For transfers
26 made on or after July 1, 2022, if, subsequent to the member's election, the Board of Trustees
27 determines that (i) the member was ineligible for the election or (ii) the election was
28 impermissible for any reason under federal or State law, then no special retirement allowance
29 shall be paid to the member pursuant to this subsection; the member shall return to the Retirement
30 System any amount already paid from the Retirement System as a special retirement allowance;
31 and the Retirement System shall return the transfer amount to the source of the transfer, including
32 any earnings adjustment that may be required under federal law or Internal Revenue Service
33 guidance. If the Retirement System is unable to return the amount to the account from which it
34 originated, the member may designate another eligible account under the transferor plan or
35 receive a lump sum distribution paid directly to the member if the member would otherwise be
36 eligible for a distribution under the transferor plan at such time.

37"

38 **SECTION 2.3.** G.S. 128-27(m1) reads as rewritten:

39 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
40 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
41 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
42 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
43 this Retirement System and receive, in addition to his basic service, early or disability retirement
44 allowance, a special retirement allowance which shall be based upon his eligible accumulated
45 account balance at the date of the transfer of the assets to this System. For the purpose of
46 determining the special retirement allowance, the Board of Trustees shall adopt straight life
47 annuity factors on the basis of mortality tables, such other tables as may be necessary and the
48 interest assumption rate recommended by the actuary based upon actual experience including an
49 assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees
50 shall modify such factors every five years, as shall be deemed necessary, based upon the five
51 year experience study as required by G.S. 128-28(o). Provided, however, a member who transfers

1 his eligible accumulated contributions from the Supplemental Retirement Income Plan of North
2 Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement
3 allowance the same as if that special retirement allowance had been paid directly by the
4 Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees'
5 Retirement System shall be responsible to determine the taxable amount, if any, and report
6 accordingly. For transfers made on or after July 1, 2022, if, subsequent to the member's election,
7 the Board of Trustees determines that (i) the member was ineligible for the election or (ii) the
8 election was impermissible for any reason under federal or State law, then no special retirement
9 allowance shall be paid to the member pursuant to this subsection; the member shall return to the
10 Retirement System any amount already paid from the Retirement System as a special retirement
11 allowance; and the Retirement System shall return the transfer amount to the source of the
12 transfer, including any earnings adjustment that may be required under federal law or Internal
13 Revenue Service guidance. If the Retirement System is unable to return the amount to the account
14 from which it originated, the member may designate another eligible account under the transferor
15 plan or receive a lump sum distribution paid directly to the member if the member would
16 otherwise be eligible for a distribution under the transferor plan at such time."

17 **SECTION 2.4.** G.S. 128-27(m2) reads as rewritten:

18 "(m2) Special Retirement Allowance. – At any time coincident with or following retirement,
19 a member may make a one-time, irrevocable election to transfer any portion of the member's
20 eligible accumulated contributions, not including any Roth after-tax contributions and the
21 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North
22 Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive,
23 in addition to the member's basic service, early or disability retirement allowance, a special
24 retirement allowance which shall be based upon the member's transferred balance.

25 A member who became a member of the Supplemental Retirement Income Plan prior to
26 retirement and who remains a member of the Supplemental Retirement Income Plan may make
27 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax
28 contributions and the earnings thereon, from any of the following plans to the Supplemental
29 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement
30 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement
31 System (i) a plan participating in the North Carolina Public School Teachers' and Professional
32 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;
33 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,
34 political subdivision of a state, or any agency or instrumentality of a state or political subdivision
35 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section
36 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be
37 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section
38 403(a) of the Internal Revenue Code. In addition, any transfer under this subsection may be paid
39 in whole or in part with employer contributions paid directly to this Retirement System at the
40 time of transfer. For transfers made on or after July 1, 2022, if, subsequent to the member's
41 election, the Board of Trustees determines that (i) the member was ineligible for the election or
42 (ii) the election was impermissible for any reason under federal or State law, then no special
43 retirement allowance shall be paid to the member pursuant to this subsection; the member shall
44 return to the Retirement System any amount already paid from the Retirement System as a special
45 retirement allowance; and the Retirement System shall return the transfer amount to the source
46 of the transfer, including any earnings adjustment that may be required under federal law or
47 Internal Revenue Service guidance. If the Retirement System is unable to return the amount to
48 the account from which it originated, the member may designate another eligible account under
49 the transferor plan or receive a lump sum distribution paid directly to the member if the member
50 would otherwise be eligible for a distribution under the transferor plan at such time.

51"

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2 **PART III. CHANGES RELATED TO THE TREATMENT OF INACTIVE EMPLOYERS**
3 **AND DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE**
4 **EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL**
5 **EMPLOYEES' RETIREMENT SYSTEM**

6 **SECTION 3.1.** G.S. 135-5.5 reads as rewritten:

7 **"§ 135-5.5. Inactive employers.**

8 (a) An employer shall be considered an inactive employer if all of the following criteria
9 are met:

- 10 (1) The employer has no employees that qualify for membership in any System
11 under this Chapter.
12 (2) The employer has made no employer contributions for at least one month.
13 (3) The employer makes a request in writing to the Retirement Systems Division
14 of the Department of State Treasurer to be made inactive.
15 (4) The Retirement Systems Division of the Department of State Treasurer has
16 reviewed the employer request to become inactive and has granted that
17 request. The Retirement Systems Division shall provide written notification
18 to the requesting employer of any decisions made under this section.

19 (b) Not later than April 30 of each calendar year, the Retirement Systems Division of the
20 Department of State Treasurer shall make a report to the Board of Trustees on all employers who
21 were determined to be inactive employers in that preceding calendar year.

22 (c) Notwithstanding subsection (a) of this section, an employer who fails to report any
23 qualifying employees for six consecutive months shall be considered an inactive employer.

24 (d) Not later than May 15 of each calendar year, the Retirement Systems Division of the
25 Department of State Treasurer shall notify all employers who were reported to the Board of
26 Trustees as inactive employers. An employer reported as inactive may apply to extend its inactive
27 period for up to one year by submitting to the Retirement System, on or before June 30 of the
28 same calendar year, clear and convincing evidence satisfactory to the Retirement System of the
29 employer's intention to hire an employee in a position qualifying for membership service in the
30 Retirement System.

31 (e) Not later than July 31 of each calendar year, the Board of Trustees shall determine
32 whether to grant any applications to extend the period of an employer's inactive status.

33 (f) On October 1 of each calendar year, any employer included in the most recent report
34 of inactive employers provided to the Board of Trustees that has not resumed reporting eligible
35 employees and has not had its inactive status extended by the Board shall cease participation in
36 the Retirement System according to the procedure and payment requirements of subsection (i) of
37 G.S. 135-8, with a complete withdrawal date of October 1."

38 **SECTION 3.2.** G.S. 128-23.1 reads as rewritten:

39 **"§ 128-23.1. Inactive employers.**

40 (a) An employer shall be considered an inactive employer if all of the following criteria
41 are met:

- 42 (1) The employer has no employees that qualify for membership in the Retirement
43 System.
44 (2) The employer has made no employer contributions for at least one month.
45 (3) The employer makes a request in writing to the Retirement Systems Division
46 of the Department of State Treasurer to be made inactive.
47 (4) The Retirement Systems Division of the Department of State Treasurer has
48 reviewed the employer request to become inactive and has granted that
49 request. The Retirement Systems Division shall provide written notification
50 to the requesting employer of any decisions made under this section.

1 (b) Not later than April 30 of each calendar year, the Retirement Systems Division of the
2 Department of State Treasurer shall make a report to the Board of Trustees on all employers who
3 were determined to be inactive employers in that preceding calendar year.

4 (c) Notwithstanding the provisions of subsection (a) of this section, an employer who has
5 made no report to the Retirement Systems of any eligible employees for six consecutive months
6 shall be considered an inactive employer.

7 (d) Not later than May 15 of each calendar year, the Retirement Systems Division of the
8 Department of State Treasurer shall notify all employers who were reported to the Board of
9 Trustees as inactive employers. An employer reported as inactive may apply to extend its inactive
10 period for up to one year by submitting to the Retirement System, on or before June 30 of the
11 same calendar year, clear and convincing evidence satisfactory to the Retirement System of the
12 employer's intention to hire an employee in a position qualifying for membership service in the
13 Retirement System.

14 (e) Not later than July 31 of each calendar year, the Board of Trustees shall determine
15 whether to grant any applications to extend the period of an employer's inactive status.

16 (f) On October 1 of each calendar year, any employer included in the most recent report
17 of inactive employers provided to the Board of Trustees that has not resumed reporting eligible
18 employees and has not had its inactive status extended by the Board shall cease participation in
19 the Retirement System according to the procedure and payment requirements of subsection (i) of
20 G.S. 128-30, with a complete withdrawal date of October 1."

21 **SECTION 3.3.** This Part becomes effective December 31, 2022.

22
23 **PART IV. CHANGES RELATED TO ESTABLISHMENT OF A DEFAULT OPTION**
24 **FOR EMPLOYING UNITS THAT FAIL TO SELECT AN OPTION FOR THE**
25 **TRANSFER OF REMAINING ASSETS UPON THE DISCONTINUATION OF**
26 **DEPARTMENT OF STATE TREASURER-SPONSORED 403(B) PLANS**

27 **SECTION 4.1.** G.S. 115C-341.2 is amended by adding a new subsection to read:

28 "(d) If the Department of State Treasurer and the Supplemental Retirement Board of
29 Trustees elect to discontinue offering the North Carolina Public School Teachers' and
30 Professional Educators' Investment Plan, participating local school boards that continue
31 sponsoring their 403(b) plan shall designate another investment provider in their 403(b) plan to
32 receive any assets remaining in their 403(b) plan upon the discontinuation of the North Carolina
33 Public School Teachers' and Professional Educators' Investment Plan. In the event that a local
34 school board fails to designate another investment provider, the Department of State Treasurer
35 and the Supplemental Retirement Board of Trustees may transfer the remaining assets, on behalf
36 of the local school board, to an individual retirement account selected in a vendor solicitation
37 pursuant to subsection (e) of G.S. 135-96."

38 **SECTION 4.2.** G.S. 115D-25.4 is amended by adding a new subsection to read:

39 "(d) If the Department of State Treasurer and the Supplemental Retirement Board of
40 Trustees elect to discontinue offering the North Carolina Public School Teachers' and
41 Professional Educators' Investment Plan, participating local boards of trustees that continue
42 sponsoring their 403(b) plan shall designate another investment provider in their 403(b) plan to
43 receive any assets remaining in their 403(b) plan upon the discontinuation of the North Carolina
44 Public School Teachers' and Professional Educators' Investment Plan. In the event that a local
45 board of trustees fails to designate another investment provider, the Department of State
46 Treasurer and the Supplemental Retirement Board of Trustees may transfer the remaining assets,
47 on behalf of the local board of trustees, to an individual retirement account selected in a vendor
48 solicitation pursuant to subsection (e) of G.S. 135-96."

1 **PART V. CHANGES RELATED TO CLARIFICATION OF THE**
2 **OPERATIONALIZATION OF THE NON-ASSIGNABILITY OF PUBLIC SAFETY**
3 **EMPLOYEES' LINE OF DUTY DEATH BENEFITS**

4 **SECTION 5.1.** G.S. 143-166.3 is amended by adding a new subsection to read:

5 "(f) Except as otherwise allowed under subdivisions (a)(4) and (e)(4) of G.S. 143-166, the
6 State Treasurer shall not pay or distribute a death benefit awarded under this section to any person
7 other than the beneficiary or the beneficiary's parent or legal guardian."

8
9 **PART VI. CHANGES RELATED TO CLARIFICATION OF ELIGIBILITY FOR**
10 **LONG-TERM DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE**
11 **EMPLOYEES' RETIREMENT SYSTEM**

12 **SECTION 6.1.** G.S. 135-106 is amended by adding a new subsection to read:

13 "(e) Notwithstanding any provision of this section to the contrary, for any beneficiary or
14 participant with at least five years of membership service as of July 31, 2007, who has not
15 withdrawn contributions for such service from the Retirement System, the provisions of this
16 section that were in effect on July 31, 2007, shall apply."

17
18 **PART VII. CHANGES RELATED TO SIGNATURE REQUIREMENTS FOR**
19 **PROPERTY FINDER AGREEMENTS**

20 **SECTION 7.1.** G.S. 116B-78 reads as rewritten:

21 "**§ 116B-78. Agreement to locate property between property finders and owners or**
22 **apparent owners.**

23 ...

24 (b) Criteria for Agreements. – An agreement covered by this section is void and
25 unenforceable if it does not meet all of the following criteria:

26 ...

27 (2a) Is signed by a licensed private investigator authorized to bind the property
28 finder, with signature notarized.

29"

30
31 **PART VIII. CHANGES RELATED TO CLARIFICATION OF LOCAL GOVERNMENT**
32 **COMMISSION APPROVAL OF CERTAIN BORROWING CONTRACTS**

33 **SECTION 8.1.** G.S. 159-151 reads as rewritten:

34 "**§ 159-151. Approval of application by Commission.**

35 ...

36 (b) The Commission shall approve the application if, upon the information and evidence
37 it receives, it finds and determines:

38 ...

39 The Commission need not find all of these facts and conclusions if it concludes that (i) the
40 proposed project is necessary and expedient, (ii) the proposed undertaking cannot be
41 economically financed by a bond issue and (iii) the contract will not require an excessive increase
42 in taxes.

43 If the Commission tentatively decides to deny the application because it cannot be supported
44 from the information presented to it, it shall so notify the unit filing the information. If the unit
45 so requests, the Commission shall hold a public hearing on the application at which time any
46 interested persons shall be heard. The Commission may appoint a hearing officer to conduct the
47 hearing and to present a summary of the testimony and his recommendation for the Commission's
48 consideration. Notwithstanding the provisions of this subsection, the Commission may deny the
49 application of any local school administrative unit or community college that fails to comply with
50 G.S. 143-64.17A(a1)."

1 **PART IX. SEVERABILITY**

2 **SECTION 9.1.** If any provision of this act or its application is held invalid, the
3 invalidity does not affect other provisions or applications of this act that can be given effect
4 without the invalid provisions or application, and to this end the provisions of this act are
5 severable.

6
7 **PART X. EFFECTIVE DATE**

8 **SECTION 10.1.** Except as otherwise provided, this act becomes effective July 1,
9 2022.