

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 1056
Committee Substitute Favorable 6/6/18
PROPOSED SENATE COMMITTEE SUBSTITUTE H1056-PCS30521-SHp-43

Short Title: FAIR 2018.-AB

(Public)

Sponsors:

Referred to:

June 1, 2018

1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE FINANCIAL ACCOUNTABILITY, INTEGRITY, AND
3 RECOVERY OF ASSETS OF THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM, THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT
5 SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE
6 LEGISLATIVE RETIREMENT SYSTEM, THE FIREFIGHTERS AND RESCUE SQUAD
7 WORKERS' PENSION FUND, THE DISABILITY INCOME PLAN, AND THE STATE
8 HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

9 Whereas, the employee benefit programs operated by the Department of State
10 Treasurer are an intergenerational partnership between public employees and taxpayers of the
11 State, it is incumbent upon the administrators of those programs to provide for Financial
12 Accountability, Integrity, and Recovery of assets (FAIRness); and

13 Whereas, taxpayers should expect FAIRness in these employee benefit programs, and
14 the Department of State Treasurer should be provided all tools necessary to promote that goal;
15 and

16 Whereas, public employees who are participants in these employee benefit programs
17 by virtue of deductions from compensation should also expect FAIRness as a baseline in the
18 operation of these programs; and

19 Whereas, future generations of North Carolinians benefit from fiscally responsible
20 management provided by FAIRness of these employee benefit programs by the current
21 generation; Now, therefore,
22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** This act shall be known and cited as the "Financial Accountability,
24 Integrity, and Recovery Act of 2018".

25 **SECTION 2.(a)** Article 3B of Chapter 135 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 135-48.37A Employing unit cooperation in collection of amounts owed to Plan.**

28 (a) Any payment of benefits or other amount to, or premiums or claims paid on behalf
29 of, any Plan member that is later determined to be an overpayment, an erroneous payment, or a
30 benefit or amount for which the Plan member was ineligible shall be repaid by the Plan member
31 to the Plan. If the Plan member is an employee of an employing unit, then any amounts to be
32 recouped under this subsection shall be offset against the net wages of the Plan member.

33 (b) If a Plan member owes an amount to the Plan under this section, has been notified of
34 this amount owed by the Plan member in writing, and has not entered into a payment plan
35 acceptable to the Plan within 30 days after the written notice, then the Plan shall notify the Plan



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1 member's employer of the amount owed. Upon receipt of this notice from the Plan, an employing
2 unit shall offset the amount owed against not less than ten percent (10%) of the net wages of the
3 Plan member until the Plan notifies the employing unit that the amount owed has been paid in
4 full. The Plan's notice to the employing unit shall be prima facie evidence that the amount owed
5 is valid and, notwithstanding any other provision of law to the contrary, the employing unit has
6 no obligation to verify the amount owed. The employing unit shall provide no more than 30 days'
7 but not less than 14 days' written notice to the Plan member prior to beginning the offset. The
8 employing unit shall remit all amounts offset under this subsection to the Plan in intervals
9 corresponding with the employing unit's regular pay periods.

10 (c) If an employing unit fails to adhere to the provisions of this section, the Plan shall,
11 after notice to the employing unit of its failure to cooperate, be entitled to seek recovery of any
12 amounts due directly from the employing unit.

13 (d) No amount due under this section may be forgiven by the Board, the Plan, the
14 Executive Administrator, the State Treasurer, or an employing unit. The Plan and the employing
15 unit shall have a duty to pursue the repayment in full of these funds by all lawful means available,
16 including the filing of a civil action in the General Court of Justice.

17 (e) Nothing in this section shall be construed to limit the Plan's ability to pursue
18 alternative judicial remedies against a Plan member or a former Plan member, including the
19 pursuit of a judgment and lien against real property."

20 **SECTION 2.(b)** G.S. 135-9 reads as rewritten:

21 "**§ 135-9. Exemption from garnishment, attachment, etc.-etc.; employing unit to offset**
22 **amount owed by member or beneficiary.**

23 (a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et
24 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of
25 a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the
26 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or
27 accruing to any person under the provisions of this Chapter, and the moneys in the various funds
28 created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other
29 process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
30 provided. Application for System approval of a domestic relations order dividing a person's
31 interest under the Retirement System shall be accompanied by an order consistent with the
32 system-designed template order provided on the System's Web site. For orders entered on or after
33 January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations
34 order shall be limited to the lifetime of that former spouse and, upon the death of that former
35 spouse, the former spouse's share shall revert to the member.

36 (b) Notwithstanding any provisions to the contrary, any overpayment of benefits or
37 erroneous payments to a member in a State-administered retirement system or the former
38 Disability Salary Continuation Plan or the Disability Income Plan of North Carolina, including
39 any benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member or
40 beneficiary who is later determined to have been ineligible for those benefits or unentitled to
41 those amounts, may be offset against any retirement allowance, return of contributions or any
42 other right accruing under this Chapter to the same person, the person's estate, or designated
43 beneficiary.

44 (c) Notwithstanding any provisions to the contrary, if a member or beneficiary is
45 employed by the State or any political subdivision of the State, then any overpayment of benefits
46 or erroneous payments to, or on behalf of, the member or beneficiary shall be offset against the
47 net wages of the member or beneficiary. If a member or beneficiary owes an amount to the
48 Retirement System, has been notified of this amount in writing, and has not entered into a
49 payment plan acceptable to the Retirement System, then the Retirement System shall notify the
50 member or beneficiary's employer of the amount owed. Upon receipt of this notice from the
51 Retirement System, the employer shall offset the amount owed against not less than ten percent

1 (10%) of the net wages of the member or beneficiary until the Retirement System notifies the
2 employer that the amount has been paid in full. The Retirement System's notice shall be prima
3 facie evidence that the debt is valid and, notwithstanding any other provision of law to the
4 contrary, the employer has no obligation to verify the amount owed. The employer shall provide
5 no more than 30 days' but not less than 14 days' written notice to the member or beneficiary prior
6 to beginning the offset. The employer shall remit all amounts offset under this subsection to the
7 Retirement System in intervals corresponding with its regular pay periods. If an employer fails
8 to adhere to the provisions of this section, then the Retirement System shall, after notice to the
9 employer of its failure to cooperate, be entitled to seek recovery of any amounts due directly
10 from the employer.

11 (d) Nothing in this section shall be construed to limit the Retirement System's ability to
12 pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a
13 judgment and lien against real property."

14 **SECTION 2.(c)** G.S. 128-31 reads as rewritten:

15 **"§ 128-31. Exemptions from execution; ~~execution~~; employing unit to offset amount owed by**
16 **member or beneficiary.**

17 (a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et
18 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of
19 a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the
20 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or
21 accruing to any person under the provisions of this Article, and the moneys in the various funds
22 created by this Article, are exempt from levy and sale, garnishment, attachment, or any other
23 process whatsoever, and shall be unassignable except as in this Article specifically otherwise
24 provided. Application for System approval of a domestic relations order dividing a person's
25 interest under the Retirement System shall be accompanied by an order consistent with the
26 system-designed template order provided on the System's Web site. For orders entered on or after
27 January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations
28 order shall be limited to the lifetime of that former spouse and, upon the death of that former
29 spouse, the former spouse's share shall revert to the member.

30 (b) Notwithstanding any provisions to the contrary, any overpayment of benefits or
31 erroneous payments to a member in a State-administered retirement system, the Disability Salary
32 Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid
33 to, or State Health Plan premiums or claims paid on behalf of, any member who is later
34 determined to have been ineligible for those benefits or unentitled to those amounts, may be
35 offset against any retirement allowance, return of contributions or any other right accruing under
36 this Chapter to the same person, the person's estate, or designated beneficiary.

37 (c) Notwithstanding any provisions to the contrary, if the member or beneficiary is an
38 employee of an employing unit of the State or any political subdivision of the State, then any
39 overpayment of benefits or erroneous payments to, or on behalf of, the member or beneficiary
40 shall be offset against the net wages of the employee. If a member or beneficiary owes an amount
41 to the Retirement System, has been notified of this amount in writing, and has not entered into a
42 payment plan acceptable to the Retirement System, then the Retirement System shall notify the
43 member or beneficiary's employer of the amount owed. Upon receipt of this notice from the
44 Retirement System, the employer shall offset the amount owed against not less than ten percent
45 (10%) of the net wages of the member or beneficiary until the Retirement System notifies the
46 employer that the amount owed has been paid in full. The Retirement System's notice shall be
47 prima facie evidence that the amount owed is valid and, notwithstanding any other provision of
48 law to the contrary, the employer has no obligation to verify the amount owed. The employer
49 shall provide no more than 30 days' but not less than 14 days' written notice to the member or
50 beneficiary prior to beginning the offset. The employer shall remit all amounts offset under this
51 subsection to the Retirement System in intervals corresponding with its regular pay periods. If

1 an employer fails to adhere to the provisions of this section, then the Retirement System shall,
2 after notice to the employer of its failure to cooperate, be entitled to seek recovery of any amounts
3 due directly from the employer.

4 (d) Nothing in this section shall be construed to limit the Retirement System's ability to
5 pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a
6 judgment and lien against real property."

7 **SECTION 2.(d)** This section is effective when it becomes law. Subsection (a) of this
8 section applies to all amounts owed by a Plan member for which notice is sent on and after that
9 date, regardless of the date the benefit, claim, or premium amount which the Plan member was
10 ineligible, the overpayment, or the erroneous payment was made. Subsections (b) and (c) of this
11 section apply to all amounts owed by a member or beneficiary to the applicable retirement system
12 for which notice is sent on and after that date, regardless of the date the overpayment of benefits
13 or the erroneous payment was made.

14 **SECTION 3.** G.S. 135-48.37 reads as rewritten:

15 **"§ 135-48.37. Liability of third person; right of subrogation; right of first recovery.**

16 (a) The Plan shall have the right of subrogation upon all of the Plan member's right to
17 recover from a liable third party for payment made under the Plan, for all medical expenses,
18 including provider, hospital, surgical, or prescription drug expenses, to the extent those payments
19 are related to an injury caused by a liable third party. The Plan member shall do nothing to
20 prejudice these rights. The Plan has the right to first recovery on any amounts so recovered,
21 whether by the Plan or the Plan member, and whether recovered by litigation, arbitration,
22 mediation, settlement, or otherwise. Notwithstanding any other provision of law to the contrary,
23 the recovery limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation
24 of Plan members.

25 (b) If the Plan is precluded from exercising its right of subrogation, it may exercise its
26 rights of recovery against any third party who was overpaid. If the Plan recovers damages from
27 a liable third party in excess of the claims paid, any excess will be paid to the member, less a
28 proportionate share of the costs of collection.

29 (c) In the event a Plan member recovers any amounts from a liable third party to which
30 the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan
31 member. If, prior to the Plan exercising its rights under this section, a Plan member utilizes or
32 otherwise disposes of any amounts that were recovered from a liable third party to which the Plan
33 is entitled under this section, then the Plan may pursue alternative judicial remedies against the
34 Plan member to recover the amount to which the Plan is entitled, including the pursuit of a
35 judgment and lien against real property.

36 (c1) The Plan has a lien, for not more than the value of claims paid related to the liability
37 of the third party, on any damages subsequently recovered by a Plan member against the any
38 liable third party. If the Plan member fails to pursue the remedy against a liable third party, the
39 Plan is subrogated to the rights of the Plan member and is entitled to enforce liability in the Plan's
40 own name or in the name of the Plan member for the amount paid by the Plan.

41 (d) In no event shall the Plan's lien exceed fifty percent (50%) of the total damages
42 recovered by the Plan member, exclusive of the Plan member's reasonable costs of collection as
43 determined by the Plan in the Plan's sole discretion. The decision by the Plan as to the reasonable
44 cost of collection is conclusive and is not a "final agency decision" for purposes of a contested
45 case under Chapter 150B of the General Statutes. Notice of the Plan's lien or right to recovery
46 shall be presumed when a Plan member is represented by an attorney, and the attorney shall
47 disburse proceeds pursuant to this section."

48 **SECTION 4.** G.S. 1-359 reads as rewritten:

49 **"§ 1-359. Debtors of judgment debtor may satisfy execution.**

50 (a) After the issuing of an execution against property, all persons indebted to the
51 judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff

1 the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the
2 sheriff's receipt is a sufficient discharge for the amount paid.

3 (b) When the Division of Employment Security of the Department of Commerce
4 (~~Division~~) prevails in a civil action against an employer to collect unpaid employment taxes under
5 G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts or other
6 third-party payments in payment of the unpaid taxes in the manner provided by subsection (a) of
7 this section. Direct receipt by the Division is a sufficient discharge for the amount paid by a credit
8 card company, clearinghouse, or third-party payment processor.

9 (c) When the State Health Plan for Teachers and State Employees prevails in a civil
10 action against a provider to collect an overpayment, the State Health Plan may attach or garnish
11 the provider's credit card receipts or other third-party payments in payment of the amount owed
12 in the manner provided by subsection (a) of this section. Direct receipt by the State Health Plan
13 is a sufficient discharge for the amount paid by a credit card company, clearinghouse, or
14 third-party payment processor.

15 (d) In addition to the intercept authority under G.S. 135-8(f) and G.S. 128-30(g), when
16 the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income
17 Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System
18 prevails in a civil action against a participating employer, as defined under G.S. 35-1 or
19 G.S. 128-21, to collect monies owed, the Teachers' and State Employees' Retirement System of
20 North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local
21 Government Employees' Retirement System may attach or garnish the employer's credit card
22 receipts or other third-party payments in payment of the amount owed in the manner provided
23 by subsection (a) of this section. Direct receipt by the Teachers' and State Employees' Retirement
24 System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina
25 Local Government Employees' Retirement System is a sufficient discharge for the amount paid
26 by a credit card company, clearinghouse, or third-party payment processor."

27 **SECTION 5.(a)** G.S. 135-48.37 is amended by adding a new subsection to read:

28 "(e) The priority of any lien held by the State Health Plan for Teachers and State
29 Employees shall be superior to all nongovernmental liens and rights, whether such liens and
30 rights are prior or subsequent to the lien."

31 **SECTION 5.(b)** G.S. 44-49(a) reads as rewritten:

32 "**§ 44-49. Lien created; applicable to persons non sui juris.**

33 (a) From and after March 26, 1935, there is hereby created a lien upon any sums
34 recovered as damages for personal injury in any civil action in this State. This lien is in favor of
35 any person, corporation, State entity, municipal corporation or county to whom the person so
36 recovering, or the person in whose behalf the recovery has been made, may be indebted for any
37 drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse,
38 or hospital, or hospital attention or services rendered in connection with the injury in
39 compensation for which the damages have been recovered. Where damages are recovered for
40 and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered
41 as fully as if the person were sui juris. The priority of a lien held by the State Health Plan for
42 Teachers and State Employees shall be superior to all nongovernmental liens and rights, whether
43 such liens and rights are prior or subsequent to the lien."

44 **SECTION 5.(c)** G.S. 44-50 reads as rewritten:

45 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose stated;**
46 **evidence; attorney's fees; charges.**

47 A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in
48 compensation for or settlement of the injuries, whether in litigation or otherwise. If an attorney
49 represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their
50 disbursement, any person that receives those funds shall retain out of any recovery or any
51 compensation so received a sufficient amount to pay the just and bona fide claims for any drugs,

1 medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or
2 hospital, or hospital attention or services, after having received notice of those claims. Evidence
3 as to the amount of the charges shall be competent in the trial of the action. Subject to
4 G.S. 135-48.37, the priority of a lien held by the State Health Plan for Teachers and State
5 Employees shall be superior to all nongovernmental liens and rights, whether such liens and
6 rights are prior or subsequent to the lien. Nothing in this section or in G.S. 44-49 shall be
7 construed so as to interfere with any amount due for attorney's services. The lien provided for
8 shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages
9 recovered. Except as provided in G.S. 44-51, a client's instructions for the disbursement of
10 settlement or judgment proceeds are not binding on the disbursing attorney to the extent that the
11 instructions conflict with the requirements of this Article."

12 **SECTION 5.(d)** G.S. 44-51 reads as rewritten:

13 **"§ 44-51. Disputed claims to be settled before payments.**

14 (a) Whenever the sum or amount or amounts demanded for medical services or hospital
15 fees shall be in dispute, nothing in this Article shall have any effect of compelling payment
16 thereof until the claim is fully established and determined, in the manner provided by law:
17 Provided, however, that when any such sums are in dispute the amount of the lien shall in no
18 case exceed the amount of the bills in dispute.

19 (b) This section shall not apply to amounts owed to the State Health Plan for Teachers
20 and State Employees for past-due account receivables related to claims payments."

21 **SECTION 5.(e)** This section is effective when it becomes law. Priority of the State
22 Health Plan for Teachers and State Employees' lien over nongovernmental liens and rights
23 created under this section shall apply only to nongovernmental liens and rights that have attached
24 to the applicable property on or after the effective date of this act.

25 **SECTION 6.(a)** Article 1 of Chapter 135 of the General Statutes is amended by
26 adding a new section to read:

27 **"§ 135-18.10B. Prohibition on purchase of forfeited service.**

28 Any member whose retirement benefits have been forfeited under G.S. 135-18.10 or
29 G.S. 135-18.10A is prohibited from subsequently purchasing or repurchasing either those
30 forfeited benefits or any creditable membership service associated with those forfeited benefits."

31 **SECTION 6.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 128-38.4B. Prohibition on purchase of forfeited service.**

34 Any member whose retirement benefits have been forfeited under G.S. 128-38.4 or
35 G.S. 128-38.4A is prohibited from subsequently purchasing or repurchasing either those forfeited
36 benefits or any creditable membership service associated with those forfeited benefits."

37 **SECTION 6.(c)** Article 4 of Chapter 135 of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 135-75.1B. Prohibition on purchase of forfeited service.**

40 Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or
41 G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited
42 benefits or any creditable membership service associated with those forfeited benefits."

43 **SECTION 6.(d)** Article 1A of Chapter 120 of the General Statutes is amended by
44 adding a new section to read:

45 **"§ 120-4.33B. Prohibition on purchase of forfeited service.**

46 Any member whose retirement benefits have been forfeited under G.S. 120-4.3 or
47 G.S. 120-4.3A is prohibited from subsequently purchasing or repurchasing either those forfeited
48 benefits or any creditable membership service associated with those forfeited benefits."

49 **SECTION 6.(e)** Article 86 of Chapter 58 of the General Statutes is amended by
50 adding a new section to read:

51 **"§ 58-86-101. Prohibition on purchase of forfeited service.**

1 Any member whose retirement benefits have been forfeited under G.S. 58-86-100 is
2 prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any
3 creditable membership service associated with those forfeited benefits."

4 **SECTION 7.** G.S. 135-4.1 reads as rewritten:

5 "**§ 135-4.1. Reciprocity of creditable service with other State-administered retirement**
6 **systems.**

7 (a) Members First Hired Prior to January 1, 2021. – Only for the purpose of determining
8 eligibility for benefits accruing under this ~~Article~~, Article for members first hired prior to January
9 1, 2021, creditable service standing to the credit of a member of the Legislative Retirement
10 System, Consolidated Judicial Retirement System, or the Local Governmental Employees'
11 Retirement System or service standing to the credit of a member of the Optional Retirement
12 Program shall be added to the creditable service standing to the credit of a member of this System;
13 provided, that in the event a person is a retired member of any of the foregoing retirement systems
14 or the Optional Retirement Program, such creditable service standing or service standing to the
15 credit of the retired member prior to retirement shall be likewise counted. In no instance shall
16 service credits maintained in the aforementioned retirement systems or the Optional Retirement
17 Program be added to the creditable service in this System for application of this System's benefit
18 accrual rate in computing a service retirement benefit unless specifically authorized by this
19 Article.

20 (a1) Members First Hired on or After January 1, 2021. – Only for the purpose of
21 determining eligibility for benefits accruing under this Article for members first hired on or after
22 January 1, 2021, creditable service standing to the credit of a member of the Legislative
23 Retirement System, Consolidated Judicial Retirement System, or the Local Governmental
24 Employees' Retirement System shall be added to the creditable service standing to the credit of
25 a member of this System, provided that in the event a person is a retired member of any of the
26 foregoing retirement systems such creditable service standing or service standing to the credit of
27 the retired member prior to retirement shall be likewise counted. In no instance shall service
28 credits maintained in the aforementioned retirement systems be added to the creditable service
29 in this System for application of this System's benefit accrual rate in computing a service
30 retirement benefit unless specifically authorized by this Article.

31 (b) A person who was a former member of this System and who has forfeited his
32 creditable service in this System by receiving a return of contributions and who has creditable
33 service in the Legislative Retirement System, Consolidated Judicial Retirement System, or the
34 Local Governmental Employees' Retirement System may count such creditable service for the
35 purpose of restoring the creditable service forfeited in this System under the terms and conditions
36 as set forth in this Article and reestablish membership in this System.

37 (c) Creditable service under this section shall not be counted twice for the same period
38 of time whether earned as a member, purchased, or granted as prior service credits."

39 **SECTION 8.(a)** Article 3B of Chapter 135 of the General Statutes is amended by
40 adding a new section to read:

41 "**§ 135-48.46. Settlement agreements by employing units.**

42 (a) No employing unit may enter into any settlement agreement with an employee or
43 former employee regarding health benefits covered under the Plan unless the employing unit has
44 received written authorization from the Plan's Executive Administrator.

45 (b) No settlement agreement between an employing unit and an employee or former
46 employee may reinstate health benefit coverage under the Plan more than one year prior to the
47 date of the settlement agreement.

48 (c) Any settlement agreement provision in violation of this section shall be void ab
49 initio."

1 **SECTION 8.(b)** This section is effective when it becomes law and applies to any
2 settlement agreements entered into on or after that, including any settlement agreements which
3 may be under negotiation on or before that date.

4 **SECTION 9.(a)** G.S. 135-8(f)(2)f. reads as rewritten:

5 "f. Each employer shall transmit to the Retirement System on account of
6 each member who retires on or after January 1, 2015, having earned
7 his or her last month of membership service as an employee of that
8 employer the lump sum payment, as calculated under G.S. 135-4(jj)
9 for inclusion in the Pension Accumulation Fund, that would have been
10 necessary in order for the retirement system to restore the member's
11 retirement allowance to the pre-cap amount. Employers are not
12 required to make contributions on account of any retiree who became
13 a member on or after January 1, 2015, and who earned at least five
14 years of membership service in the Retirement System after January
15 1, 2015. The retirement allowance of a member with a final average
16 compensation of more than one hundred thousand dollars (\$100,000),
17 as hereinafter indexed, shall not be subject to the contribution-based
18 benefit cap if the compensation was earned from multiple
19 simultaneous employers, unless an employer's share of the average
20 final compensation exceeds one hundred thousand dollars (\$100,000).
21 An employer is not required to make contributions on account of any
22 retiree whose final average compensation exceeds one hundred
23 thousand dollars (\$100,000), as hereinafter indexed, based upon
24 compensation earned from multiple simultaneous employers, unless
25 that employer's share of the average final compensation exceeds one
26 hundred thousand dollars (\$100,000), as provided and indexed under
27 G.S. 135-5(a3).

28 Under such rules as the Board of Trustees shall adopt, the
29 Retirement System shall report monthly to each employer a list of
30 those members for whom the employer made a contribution to the
31 Retirement System in the preceding month that are most likely to
32 require an additional employer contribution should they elect to retire
33 in the following 12 months, if applicable."

34 **SECTION 9.(b)** G.S. 128-30(g)(2)b. reads as rewritten:

35 "b. Each employer shall transmit to the Retirement System on account of
36 each member who retires on or after January 1, 2015, having earned
37 his or her last month of membership service as an employee of that
38 employer the lump sum payment, as calculated under G.S. 128-26(y)
39 for inclusion in the Pension Accumulation Fund, that would have been
40 necessary in order for the retirement system to restore the member's
41 retirement allowance to the pre-cap amount. Employers are not
42 required to make contributions on account of any retiree who became
43 a member on or after January 1, 2015, and who earned at least five
44 years of membership service in the Retirement System after January
45 1, 2015. The retirement allowance of a member with a final average
46 compensation of more than one hundred thousand dollars (\$100,000),
47 as hereinafter indexed, shall not be subject to the contribution-based
48 benefit cap if the compensation was earned from multiple
49 simultaneous employers, unless an employer's share of the average
50 final compensation exceeds one hundred thousand dollars (\$100,000).
51 An employer is not required to make contributions on account of any

1 retiree whose final average compensation exceeds one hundred
 2 thousand dollars (\$100,000), as hereinafter indexed, based upon
 3 compensation earned from multiple simultaneous employers, unless
 4 that employer's share of the average final compensation exceeds one
 5 hundred thousand dollars (\$100,000), as provided and indexed under
 6 G.S. 128-27(a3).

7 Under such rules as the Board of Trustees shall adopt, the
 8 Retirement System shall report monthly to each employer a list of
 9 those members for whom the employer made a contribution to the
 10 Retirement System in the preceding month that are most likely to
 11 require an additional employer contribution should they elect to retire
 12 in the following 12 months, if applicable."

13 **SECTION 10.(a)** G.S. 135-105 reads as rewritten:

14 **"§ 135-105. Short-term disability benefits.**

15 (a) Any participant who becomes disabled and is no longer able to perform his or her
 16 usual occupation ~~may, after at least 365 calendar days succeeding his date of initial employment~~
 17 ~~as a teacher or employee and at least one year of contributing membership service,~~ may receive a
 18 benefit commencing on the first day succeeding the waiting ~~period;~~ period provided that the all of
 19 the following conditions are met:

- 20 (1) Application for the benefit occurs at least 365 calendar days succeeding the
 21 participant's date of initial employment as a teacher or employee.
 22 (2) The participant has at least one year of contributing membership service
 23 earned within 36 calendar months immediately preceding the date of
 24 disability. Salary continuation used during the period as provided in
 25 G.S. 135-104 shall count toward this one-year requirement.
 26 (3) Application for the benefit occurs no later than 365 days following the first
 27 day of the waiting period.
 28 (4) The participant's employer and attending physician shall certify that such the
 29 participant is mentally or physically incapacitated for the further performance
 30 of duty, that such duty.
 31 (5) The participant's incapacity was incurred at the time of active employment
 32 and has been continuous thereafter; provided further that the requirement for
 33 one year of contributing membership service must have been earned within
 34 36 calendar months immediately preceding the date of disability and further,
 35 salary continuation used during the period as provided in G.S. 135-104 shall
 36 count toward the aforementioned one year requirement thereafter.

37 As to the requirement that a participant applying for short term disability benefits have at
 38 least one year of contributing membership service within the 36 calendar months immediately
 39 preceding the date of disability, a participant who would have qualified for a benefit under this
 40 section but for service in the uniformed services shall not be denied a benefit under this section
 41 because of that interruption for military service provided all other requirements of this section
 42 are met.

43 Notwithstanding the requirement that the incapacity was incurred at the time of active
 44 employment, any participant who becomes disabled while on an employer approved leave of
 45 absence and who is eligible for and in receipt of temporary total benefits under The North
 46 Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be
 47 eligible for all benefits provided under this Article.

48 ...

49 (d) ~~The~~ For short-term disability benefits that begin before July 1, 2019, the provisions of
 50 this section shall be administered by the employer and further, the benefits during the first six
 51 months of the short-term disability period shall be the full responsibility of and paid by the

1 employer; Provided, further, that upon the completion of the initial six months of the short-term
2 disability period, the employer will continue to be responsible for the short-term benefits to the
3 participant, however, such employer shall notify the Plan, at the conclusion of the short-term
4 disability period or upon termination of short-term disability benefits, if earlier, of the amount of
5 short-term benefits and State Health Insurance premiums paid by the employer and the Plan shall
6 reimburse the employer the amounts so paid.

7 (d1) For short-term disability benefits that begin on and after July 1, 2019, the provisions
8 of this section shall be administered by the employer. The benefits during the first 12 months of
9 the short-term disability period, including benefits from a preliminary determination of eligibility
10 for long-term disability under subsection (f) of this section, shall be the full responsibility of and
11 paid by the employer.

12"

13 **SECTION 10.(b)** This section is effective when it becomes law and applies to
14 applications for short-term disability benefits beginning on or after that date.

15 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
16 law.