

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 1056
May 25, 2022
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10594-MGp-186A

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

(Public)

Sponsors: Representative McNeill.

Referred to:

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

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

(1) If the participant or beneficiary is entitled to a weekly workers' compensation payment, the monthly payment for workers' compensation shall be determined by multiplying the weekly payment by 52 and dividing by 12 and the



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1 long-term disability benefit shall be reduced by the monthly payment for
2 workers' compensation effective as of the first of the month following the
3 month of initial entitlement for workers' compensation.

4 (2) If the participant or beneficiary is entitled to a lump sum workers'
5 compensation payment equal to a stated weekly or monthly amount for a given
6 number of weeks or months, the monthly payment for workers' compensation
7 shall be determined using the stated weekly or monthly amount and the
8 long-term disability benefit shall be reduced by the monthly payment for
9 workers' compensation effective as of the first of the month following the
10 month of the lump sum payment.

11 (3) If the participant or beneficiary is entitled to a lump sum workers'
12 compensation payment that is not in reference to a stated weekly or monthly
13 amount, the monthly payment for workers' compensation shall be determined
14 by dividing the lump sum by 500 weeks to arrive at a weekly payment, then
15 multiplying by 52 and dividing by 12 and the long-term disability benefit shall
16 be reduced by the monthly payment for workers' compensation effective as of
17 the first of the month following the month of the lump sum payment.

18 (4) In the case of monthly reduction in the long-term disability benefit arising
19 from a lump sum workers' compensation payment, once the reductions,
20 without interest, have totaled the entirety of the lump sum payment, the
21 member may contact the Retirement Systems Division to request to cease the
22 monthly payment reduction and the Retirement Systems Division shall cease
23 the reduction after verifying that the reductions have totaled the entirety of the
24 lump sum payment. If the Retirement Systems Division determines that the
25 total reductions exceeded the lump sum payment, the Retirement Systems
26 Division shall distribute the excess amount to the member in a lump sum
27 payment."

28 **SECTION 1.1.(b)** This Part applies to participants or beneficiaries who become
29 entitled to receive workers' compensation benefits on or after July 1, 2022.
30

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

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

37 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
38 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
39 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
40 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
41 this Retirement System and receive, in addition to his basic service, early or disability retirement
42 allowance, a special retirement allowance which shall be based upon his eligible accumulated
43 account balance at the date of the transfer of the assets to this System. For the purpose of
44 determining the special retirement allowance, the Board of Trustees shall adopt straight life
45 annuity factors on the basis of mortality tables, such other tables as may be necessary and the
46 interest assumption rate recommended by the actuary based upon actual experience including an
47 assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees
48 shall modify such factors every five years, as shall be deemed necessary, based upon the five
49 year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers
50 his eligible accumulated contributions from the Supplemental Retirement Income Plan of North
51 Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement

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

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

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

34"

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

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

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

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

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

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

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50 **PART III. CHANGES RELATED TO THE TREATMENT OF INACTIVE EMPLOYERS**
51 **AND DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE**

1 **EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL**
2 **EMPLOYEES' RETIREMENT SYSTEM**

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

4 **"§ 135-5.5. Inactive employers.**

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

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

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

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

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

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

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

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

36 **"§ 128-23.1. Inactive employers.**

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

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

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

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

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

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

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

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

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

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

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

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

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

46
47 **PART V. CHANGES RELATED TO CLARIFICATION OF THE**
48 **OPERATIONALIZATION OF THE NON-ASSIGNABILITY OF PUBLIC SAFETY**
49 **EMPLOYEES' LINE OF DUTY DEATH BENEFITS**

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

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

5 **PART VI. CHANGES RELATED TO CLARIFICATION OF ELIGIBILITY FOR**
6 **LONG-TERM DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE**
7 **EMPLOYEES' RETIREMENT SYSTEM**

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

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

14 **PART VII. CHANGES RELATED TO SIGNATURE REQUIREMENTS FOR**
15 **PROPERTY FINDER AGREEMENTS**

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

17 **"§ 116B-78. Agreement to locate property between property finders and owners or**
18 **apparent owners.**

19 ...

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

22 ...

23 (2a) Is signed by a licensed private investigator authorized to bind the property
24 finder, with signature notarized.

25 "
26

27 **PART VIII. CHANGES RELATED TO CLARIFICATION OF LOCAL GOVERNMENT**
28 **COMMISSION APPROVAL OF CERTAIN BORROWING CONTRACTS**

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

30 **"§ 159-151. Approval of application by Commission.**

31 ...

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

34 ...

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

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

48 **PART IX. SEVERABILITY**

49 **SECTION 9.1.** If any provision of this act or its application is held invalid, the
50 invalidity does not affect other provisions or applications of this act that can be given effect

1 without the invalid provisions or application, and to this end the provisions of this act are
2 severable.

3

4 **PART X. EFFECTIVE DATE**

5 **SECTION 10.1.** Except as otherwise provided, this act becomes effective July 1,
6 2022.