



HOUSE BILL 168: Retirement Administrative Changes Act of 2021.

2021-2022 General Assembly

Committee:	House Pensions and Retirement. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	March 22, 2021
Introduced by:	Reps. C. Smith, Kidwell, McNeill	Prepared by:	Theresa Matula
Analysis of:	PCS to Second Edition H168-CSSHp-9		Legislative Analyst

OVERVIEW: *House Bill 168 would amend the Teachers' and State Employees' Retirement System (TSERS) and the Local Governmental Employees' Retirement System (LGERS) regarding contribution-based benefit cap liabilities, a clarification of withdrawal liabilities, terminology standardization, and the requirement to adopt written policies on special separation buyouts; in addition to providing authorization for Department of State Treasurer and the Supplemental Retirement Board to adopt fees; amend the Optional Retirement Program with regard to Disability Income Plan overpayments; address the process for the special retirement allowance payments upon the death of a beneficiary; and a severability clause.*

The PCS makes a technical change in Section 7.1 to change "member's estate" to "member's legal representatives."

[As introduced, this bill was identical to S276, as introduced by Sens. Alexander, Burgin, which is currently in an unknown committee.]

BILL ANALYSIS:

Part I. Contribution-Based Benefit Cap Liabilities

Using Post-Employment Benefit Trust to Fund Liability: Section 1.1 amends local government finance statutes to allow contribution-based benefit cap (CBBC) liabilities to the Local Governmental Employees' Retirement System (LGERS) to be paid into a trust for post-employment benefits.

Authorization to Collect Additional Contributions: Section 1.2(a) amends LGERS statutes and (b) amends the Teachers' and State Employees' Retirement System (TSERS) statutes to allow the collection of additional contributions when the CBBC liability is not paid as a lump-sum payment. The change allows the required employer contribution rate to be adjusted to include an additional contribution equal to a rate per centum that is estimated to end the CBBC liability on an amortization schedule. Section 1.2(c) provides that the changes in this section apply to assessments imposed on or after the effective date of the act.

Liability Payment Due Date Clarification for Triggering Interception of State Funds: Section 1.3(a) amends the LGERS and (b) amends the TSERS statutes that currently allow the Office of State Budget and Management to withhold from any State appropriation due to an employer, the amount equal to delinquent contributions and other debts due to the Retirement Systems Division. The change clarifies that for the payment of a CBBC liability, the date for payment is 12 months after the member's effective date of retirement, or the first day of the month coincident with or next following six months after the date of the invoice, whichever is later. Section 1.3(c) provides that the changes in this section apply to

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contribution-based benefit cap liability payments due from an employer on or after the effective date of the act.

Part II: Clarification of Withdrawal Liabilities

Section 2.1(a) amends LGERS and (b) amends TSERS statutes to clarify that the statute pertaining to the procedure and payment to cease participation in the Retirement System applies to an employing unit that is allowed to cease participation by sale, dissolution, or otherwise changing to a business or legal form not eligible under federal law for participation as an employer in the Retirement System. Section 2.1(c) provides that this section applies to a participation withdrawal by an employing unit on or after the effective date of the act.

Part III. Clarification and Standardization of "Actuarial Equivalent"

Section 3.1(a) amends LGERS and (b) amends TSERS statutes to provide that for both systems, the term "actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial assumptions as shall be adopted by the Board of Trustees. Section 3.1(c) provides that the changes in this section apply to benefit calculations performed on or after the effective date of the act.

Part IV. Mandatory Adoption of Written Policies on Special Separation Buyouts for LEOs

Current law allows any State department/agency/institution or local government employer to offer a lump sum separation buyout to a law enforcement officer (LEO) who leaves employment prior to reaching the officer's eligibility for a separation allowance. The TSERS and LGERS special retirement allowance statutes [G.S. 135-5(m2) and G.S. 128-27(m2)] allow a "transfer paid in whole or in part with employer contributions paid to the Retirement System."

Section 4.1(a) amends the statute on separation buyouts for LEOs to require that prior to the transfer of a buyout to TSERS or LGERS, the State department/agency/institution or local government employer is required have in place a written policy adopted by the employing unit that does not allow employees to choose between accepting the lump sum separation buyout as a cash payment or transferring the lump sum separation buyout to TSERS or LGERS. Section 4.1(b) provides that the changes in this section apply to lump sum separation buyouts offered to law enforcement officers on or after the effective date of the act.

Part V. Authorization for Dept. of State Treasurer and the Supplemental Retirement Board to Adopt Administrative Fees for Supplemental Retirement Plan of NC, NC Deferred Compensation Plan, and NC Public School Teachers' and Professional Educators' Investment Plan.

Section 5.1 amends administration statutes for the Supplemental Retirement Income Plan of North Carolina to allow the Department of State Treasurer (Department) and the Supplemental Retirement Board of Trustees (Board) to adopt a new or amended rule to impose or change administrative fees under the Plan. The Department and Board are not allowed to adopt a new or amended rule to impose or change an administrative fee under the Plan that exceeds the following amounts:

- (1) One fourth percent (0.25%) of assets for the Supplemental Retirement Plan of North Carolina.
- (2) One fourth percent (0.25%) of assets for the North Carolina Deferred Compensation Plan.
- (3) Five hundredths percent (0.05%) of assets for the North Carolina Public School Teachers' and Professional Educators' Investment Plan.

The rule must be adopted at a public meeting that complies with the statutes pertaining to meetings of public bodies (Article 33C, Chapter 143). The Department is required to post the draft rule on the website at least 30 days prior to the public meeting and to send copies of the draft rule to persons requesting a copy. During the 30-day period, the Department and the Board must accept comments on the draft rule. Following adoption or amendment of the rule, the Department must post the adopted rule. Rules adopted under the subsection are not subject to the rules process under the Administrative Procedure Act [Article

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2A of Chapter 150B]. The changes in this section pertain only to rules regarding administrative fees charged by the Department and the Board for the Supplemental Retirement Plan of NC, the NC Deferred Compensation Plan, and the NC Public School Teachers' and Professional Educators' Investment Plan. Section 5.1(b) provides that any administrative fee established or changed pursuant to G.S. 135-91(c1) as amended by this section, applies prospectively to any amounts owed on or after the effective date of the act to the Supplemental Retirement Plan of NC, the NC Deferred Compensation Plan, and the NC Public School Teachers' and Professional Educators' Investment Plan.

Part VI. Clawback of NC Disability Income Plan Overpayments

Section 6.1(a) amends the TSERS Optional Retirement Program (ORP) statutes to provide that if an ORP participant owes an overpayment to the Disability Income Plan (DIP) at the time the beneficiary would first qualify for an unreduced retirement benefit had the member elected to be a member of TSERS, then the participant must pay the total overpayment due to the DIP. If the participant does not pay the overpayment within six months after the earliest age at which the member could retire on an unreduced retirement allowance, then the participant will not be allowed to enroll in a new year of coverage under the State Health Plan until 1) the DIP receives full payment of the total overpayment due, or 2) the participant makes payment arrangements approved by the Executive Director of the Retirement System. Section 6.1(b) provides that this section applies to overpayments owed on or after the effective date of the act to the NC Disability Income Plan.

Part VII. Special Retirement Allowance Payments Upon the Death of the Designated Beneficiary

Section 7.1(a) amends the LGERS and (b) amends the TSERS statutes to outline the process for the payment of the special retirement allowance when the member has selected Option 2, 3, or 6 and the member dies and the member's designated beneficiary dies. If the beneficiary dies before the specified number of months, a one-time payment will be paid to the member's legal representatives equal to the initial monthly special retirement allowance, multiplied by the specified number of months, less the total of the monthly payments made to the member and beneficiary. This section would become effective July 1, 2021.

Part VIII. Severability

Section 8.1 contains a severability clause.

EFFECTIVE DATE: This bill would become effective July 1, 2021.