

GENERAL ASSEMBLY OF NORTH CAROLINA
1983 SESSION

CHAPTER 556
HOUSE BILL 456

AN ACT TO REINSTATE PORTIONS OF THE PREVIOUS PROVISIONS OF LAW
REGARDING THE TREATMENT OF REEMPLOYED RETIREES IN THE
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND THE
TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-24(5)c. and G.S. 135-3(8)c. are rewritten to read:

"c. Should a beneficiary who retired on an early or service retirement allowance be restored to service for a period of time exceeding six calendar months, his retirement allowance shall cease, he shall again become a member of the Retirement System and he shall contribute thereafter at the uniform contribution rate payable by all members. Notwithstanding the foregoing, the beneficiary may irrevocably elect to commence membership immediately upon being restored to service, with cessation of his retirement allowance; and, the acceptance of the first monthly retirement allowance after being restored to service shall be an election to delay membership for the aforementioned six calendar months. Upon his subsequent retirement, he shall be entitled to the greater of the two allowances described in 1 and 2 below.

1. The allowance to which he would be entitled had he not been restored to service with cessation of retirement allowance, plus the allowance to which he would be entitled on account of his service after restoration to service and membership; provided, for the sole purpose of determining retirement eligibility on account of his service after restoration, that his creditable service shall be taken as the sum of his creditable service prior to and subsequent to his restoration to service; or
2. The allowance to which he would be entitled if his retirement were commencing for the first time, calculated on the basis of his total creditable service represented by the sum of his creditable service prior to and subsequent to his restoration to service, reduced by the actuarial equivalent of the retirement allowance he previously received; provided, in no event may he alter his Election of Optional Allowance as previously made."

Sec. 2. G.S. 128-24(5) and G.S. 135-3(8) are amended by the addition of a new subdivision designated as "d." to read:

"d. Should a beneficiary who retired on an early or service retirement allowance be employed by an employer participating in the Retirement System as an employee

meeting less than the definition of service as used in this Chapter or on a contractual or fee basis for a period of time exceeding six calendar months, and if the beneficiary earns compensation for the employment in any calendar year which exceeds an amount equal to sixty percent (60%) of his gross compensation earned as an employee during the 12 consecutive months in the final 48 months of service prior to retirement producing the highest gross compensation excluding any compensation on account of termination, with the amount indexed as hereinafter provided, then the retirement allowance of the beneficiary shall be reduced by the amount of his earned compensation which exceeds the sixty percent (60%) of gross compensation prior to retirement; provided, in no event shall the retirement allowance of a beneficiary be less than the amount of his annuity as defined in this Chapter. The amount a beneficiary may earn before reduction shall be increased on January 1 each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%)."

Sec. 3. Any beneficiary in the Local Governmental Employees' Retirement System or the Teachers' and State Employees' Retirement System who was excluded from membership upon return to service on account of the former G.S. 128-24(5)c. or G.S. 135-3(8)c. may elect to repay all retirement allowances received while so excluded plus an amount equal to the member contributions which would otherwise have been made, to the appropriate Retirement System, and thereby establish retroactive membership service. The election and payment of these amounts must be made by December 31, 1983. The employer of the member shall, coincident with the payment by the member, pay to the appropriate Retirement System an amount equal to the employer contributions which would otherwise have been made while the member was so excluded from membership.

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 17th day of June, 1983.