

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-137
SENATE BILL 204**

AN ACT TO ENABLE RETIREES OF THE TEACHERS' AND STATE EMPLOYEES'
RETIREMENT SYSTEM TO RETURN TO EMPLOYMENT AS NURSING
INSTRUCTORS WITHOUT LOSING RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed by, or otherwise engaged to perform services for, an employer participating in the Retirement System on a part time, temporary, interim, or on a fee for service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12 month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year, except when the reemployment earnings exceed the amount above in the month of December, in which case the retirement allowance shall not be suspended. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of 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%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, who retired on or before October 1, 2007, and who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).



The computation of postretirement earnings of a beneficiary under this sub-subdivision, who retired after October 1, 2007, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

The computation of postretirement earnings of a beneficiary under this sub-subdivision who retired on or before June 1, 2009, regardless of age or years of creditable service, or who retires on or after July 1, 2009, after attaining (i) the age of at least 65 with five years of creditable service; or (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years of service; and who has been retired at least six months and has not been employed in any capacity with a State-supported community college or a State-supported university for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek as a nursing instructor in a certified nursing program for a maximum period of three years.

In order for a retired nursing instructor to be rehired, the community college or university must certify to the Teachers' and State Employees' Retirement System that it has a shortage of qualified nursing instructors, and must:

1. Make a good faith effort to fill positions with qualified nursing instructors who are not retirees;
2. Post the vacancy or vacancies for at least two months;
3. Solicit applications through local newspapers, other media, and nursing education programs; and
4. Determine that there is an insufficient number of eligible applicants for the advertised position or positions.

The North Carolina Community College System and The University of North Carolina shall certify to the Retirement System that a beneficiary is employed to teach as a nursing instructor with a State-supported community college or a State-supported university under the provisions of this sub-subdivision.

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

SECTION 2. Notwithstanding any other provision of law, effective July 1, 2009, each community college or university employing a retired nursing instructor under the provisions of G.S. 135-3(8)c. shall pay to the Teachers' and State Employees' Retirement

System a Reemployed Nurse Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries being paid to the retired nursing instructors who are exempt from the earnings cap under this act. Each community college or university shall report monthly to the Retirement Systems Division on payments made pursuant to this section.

SECTION 3. The North Carolina Community College System and The University of North Carolina shall report in writing to the General Assembly by January 1, 2011, on whether the reemployment of retired nursing instructors under this act is effectively assisting the community colleges and the universities to address the shortage of qualified nursing instructors.

SECTION 4. This act becomes effective July 1, 2009, and expires June 30, 2013.
In the General Assembly read three times and ratified this the 8th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 11:52 a.m. this 19th day of June, 2009