

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

**SESSION LAW 2022-14
HOUSE BILL 1056**

AN ACT PROVIDING 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 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

SECTION 1.1. G.S. 135-5(m1) reads as rewritten:

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



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

SECTION 1.2. G.S. 135-5(m2) reads as rewritten:

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

...."

SECTION 1.3. G.S. 128-27(m1) reads as rewritten:

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

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

SECTION 1.4. G.S. 128-27(m2) reads as rewritten:

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

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

...."

PART II. CHANGES RELATED TO THE TREATMENT OF INACTIVE EMPLOYERS AND DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE

EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

SECTION 2.1. G.S. 135-5.5 reads as rewritten:

"§ 135-5.5. Inactive employers.

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

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

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

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

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

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

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

SECTION 2.2. G.S. 128-23.1 reads as rewritten:

"§ 128-23.1. Inactive employers.

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

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

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

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

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

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

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

SECTION 2.3. This Part becomes effective December 31, 2022.

PART III. CHANGES RELATED TO 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

SECTION 3.1. G.S. 115C-341.2 is amended by adding a new subsection to read:

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

SECTION 3.2. G.S. 115D-25.4 is amended by adding a new subsection to read:

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

PART IV. CHANGES RELATED TO CLARIFICATION OF THE OPERATIONALIZATION OF THE NON-ASSIGNABILITY OF PUBLIC SAFETY EMPLOYEES' LINE OF DUTY DEATH BENEFITS

SECTION 4.1. G.S. 143-166.3 is amended by adding a new subsection to read:

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

PART V. CHANGES RELATED TO CLARIFICATION OF ELIGIBILITY FOR LONG-TERM DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION 5.1. G.S. 135-106 is amended by adding a new subsection to read:

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

PART VI. CHANGES RELATED TO SIGNATURE REQUIREMENTS FOR PROPERTY FINDER AGREEMENTS

SECTION 6.1. G.S. 116B-78 reads as rewritten:

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

...

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

...

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

...."

PART VII. CHANGES RELATED TO CLARIFICATION OF LOCAL GOVERNMENT COMMISSION APPROVAL OF CERTAIN BORROWING CONTRACTS

SECTION 7.1. G.S. 159-151 reads as rewritten:

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

...

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

...

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

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

PART VIII. SEVERABILITY

SECTION 8.1. If any provision of this act or its application is held invalid, the invalidity does not affect other provisions or applications of this act that can be given effect

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

PART IX. EFFECTIVE DATE

SECTION 9.1. Except as otherwise provided, this act becomes effective July 1, 2022.

In the General Assembly read three times and ratified this the 27th day of June, 2022.

s/ Carl Ford
Presiding Officer of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 3:33 p.m. this 29th day of June, 2022