

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1011

Short Title: State Employees RIF Rights/Options.

(Public)

Sponsors: Senators McDaniel, Kincaid, Page, Winner, Carpenter, Martin of Guilford, Hobbs, Ledbetter, McKoy, Warren, Albertson, Clark, Foxx, Carrington, Lucas, Ballantine, Jordan, Conder, Plexico, Sherron, and Davis.

Referred to: Pensions and Retirement/Insurance/State Personnel

May 4, 1995

A BILL TO BE ENTITLED

1
2 AN ACT PROVIDING EARLY RETIREMENT OPTIONS TO STATE EMPLOYEES
3 SUBJECT TO THE STATE PERSONNEL ACT WHO ARE SEPARATED FROM
4 EMPLOYMENT DUE TO REDUCTIONS IN FORCE AND OTHERWISE
5 RELATING TO THE RIGHTS AND BENEFITS OF EMPLOYEES SEPARATED
6 FROM STATE EMPLOYMENT DUE TO REDUCTIONS IN FORCE.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 126-7.1 reads as rewritten:

9 "**§ 126-7.1. Posting requirement; State employees receive priority ~~consideration.~~**
10 **consideration; reduction-in-force rights and benefits; severance.**

11 (a) All vacancies for which any State agency, department, or institution openly
12 recruit shall be posted within at least the following:

13 (1) The personnel office of the agency, department, or institution having the
14 vacancy; and

15 (2) The particular work unit of the agency, department, or institution having
16 the vacancy

17 in a location readily accessible to employees. If the decision is made, initially or at any
18 time while the vacancy remains open, to receive applicants from outside the recruiting

1 agency, department, or institution, the vacancy shall be listed with the Office of State
2 Personnel for the purpose of informing current State employees of such vacancy. The
3 State agency, department, or institution may not receive approval from the Office of State
4 Personnel to fill a job vacancy if the agency, department, or institution cannot prove to
5 the satisfaction of the Office of State Personnel that it complied with these posting
6 requirements. The agency, department, or institution which hires any person in violation
7 of these posting requirements shall pay such person when employment is discontinued as
8 a result of such violation for the work performed during the period of time between his
9 initial employment and separation.

10 (a1) For the purposes of this section, 'State employee' means a State employee in a
11 permanent position appointment subject to this Chapter.

12 (a2) State employees to be affected by a planned reduction in force shall be notified
13 of the reduction in force as soon as practicable, and in any event, no less than 60 days
14 prior to the effective date of the reduction in force.

15 (a3) The State Personnel Commission shall adopt rules to provide that priority
16 consideration for State employees separated from State employment as the result of
17 reductions in force is to enable a State employee's return to career service at a salary
18 grade and salary rate equal to that held in the most recent position. The State Personnel
19 Commission shall provide that a State employee who:

20 (1) Accepts a position at the same salary grade shall be paid at the same
21 salary rate as the employee's previous position.

22 (2) Accepts a position at a lower salary grade than the employee's previous
23 position shall be paid at the same rate as the previous position unless the
24 salary rate exceeds the maximum of the new salary grade. When the
25 salary rate exceeds the maximum of the salary grade, the employee's
26 new salary rate shall be reduced by no more than ten percent (10%).

27 (a4) Each State department, agency, or institution shall continue to pay the State
28 Health Plan employee-only premium for employees who are separated due to a reduction
29 in force for the entire period that the employee remains eligible for priority
30 reemployment consideration pursuant to this section. At the end of a State employee's
31 eligibility for priority reemployment consideration, the employee and the employee's
32 dependents may opt to remain in the State Health Plan on a self-contributing basis at the
33 same premium rate as active State employees.

34 (a5) Notwithstanding any other provision of law:

35 (1) The State Personnel Commission and the Teachers' and State
36 Employees' Retirement System of North Carolina shall provide
37 unreduced retirement benefits for employees separated due to a
38 reduction in force who are at least 50 years of age and have at least 25
39 years of service.

40 (2) For employees with at least 20 years of service who are less than 50
41 years of age, five years shall be added to their age for retirement
42 purposes.

1 (a6) A State employee separated from employment due to a reduction in force shall
 2 receive severance salary continuation, payable monthly, consisting of two components:
 3 (i) a service factor which provides for a continuation of salary as follows:

<u>Years of Service</u>	<u>Payment</u>
<u>Less than 1 year</u>	<u>2 weeks</u>
<u>1 but less than 5 years</u>	<u>1 month</u>
<u>5 but less than 10 years</u>	<u>2 months</u>
<u>10 but less than 20 years</u>	<u>3 months</u>
<u>20 or more years</u>	<u>4 months</u>

10 and, in addition, (ii) an age adjustment factor, if the employee is 40 years of age or more.
 11 'Age adjustment factor' means a percentage of an employee's annual salary used in
 12 determining a State employee's salary severance continuation amount that reflects the
 13 employee's age over 39 years to recognize that older employees, although protected by
 14 law from discrimination on the basis of age, do have a more difficult time finding new
 15 employment due to a lack of transferable skills, current salary level, geographic location,
 16 and other factors, as follows:

<u>Years of Service</u>	<u>Age Adjustment Factor</u>
<u>Less than 1 year</u>	<u>2.5%</u>
<u>1 but less than 5 years</u>	<u>2.5%</u>
<u>5 but less than 10 years</u>	<u>2.5%</u>
<u>10 but less than 20 years</u>	<u>2.5%</u>
<u>20 or more years</u>	<u>2.5%.</u>

23 However, the age adjustment factor shall not exceed the service factor.

24 (b) Subsection (a) of this section does not apply to vacancies which must be filled
 25 immediately to prevent work stoppage or the protection of the public health, safety, or
 26 security.

27 (c) If a State employee subject to this section:

- 28 (1) Applies for another position of State employment; and
- 29 (2) Has substantially equal qualifications as an applicant who is not a State
 30 employee

31 then the State employee shall receive priority consideration over the applicant who is not
 32 a State employee. ~~This priority consideration shall not apply when the only applicants~~
 33 ~~considered for the vacancy are current State employees.~~

34 (c1) If a State employee who has been separated due to reduction in force or who
 35 has been given notice of imminent separation due to reduction in force:

- 36 (1) Applies for another position of State employment equal to or lower in
 37 salary grade than the position held by the employee at the time of
 38 notification or separation; and
- 39 (2) Is determined qualified for that position

40 then within the separating agency, the State employee shall receive priority consideration
 41 over other applicants including those who are current State employees not affected by the
 42 reduction in force. Within all other agencies, the State employee shall receive priority
 43 consideration over other applicants from outside State government, but shall receive

1 equal consideration with other applicants who are current State employees not affected by
2 the reduction in force. This priority shall remain in effect for a period of 12 months from
3 the date the employee receives notification of separation by reduction in force. State
4 employees separated due to reduction in force shall receive higher priority than other
5 applicants with employment or reemployment priorities, except that the reemployment
6 priority created by G.S. 126-5(e)(1) shall be considered as equal. The ~~reduction-in-force~~
7 reduction-in-force priority created by this subsection shall be administered in accordance
8 with rules promulgated by the State Personnel Commission.

9 (c2) If the applicants for a position include current State employees, a State
10 employee with more than five years of service shall receive priority consideration over a
11 State employee having less than five years of service in the same or related position
12 classification. This reemployment priority shall be given by all State departments,
13 agencies, and institutions with regard to positions subject to this Chapter.

14 (d) 'Qualifications' within the meaning of subsection (c) of this section shall
15 consist of:

- 16 (1) Training or education;
- 17 (2) Years of experience; and
- 18 (3) Other skills, knowledge, and abilities that bear a reasonable functional
19 relationship to the abilities and skills required in the job vacancy applied
20 for."

21 Sec. 2. G.S. 135-40.2 reads as rewritten:

22 **"§ 135-40.2. Eligibility.**

23 (a) The following persons are eligible for coverage under the Plan, on a
24 noncontributory basis, subject to the provisions of G.S. 135-40.3:

- 25 (1) All permanent full-time employees of an employing unit who meet the
26 following conditions:
 - 27 a. Paid from general or special State funds, or
 - 28 b. Paid from non-State funds and in a group for which his or her
29 employing unit has agreed to provide coverage.

30 Employees of State agencies, departments, institutions, boards, and
31 commissions not otherwise covered by the Plan who are employed in
32 permanent job positions on a recurring basis and who work 30 or more
33 hours per week for nine or more months per calendar year are covered
34 by the provisions of this subdivision.

- 35 (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
36 least one-half of the workdays of each pay period.
- 37 (2) Retired teachers, State employees, members of the General Assembly,
38 and retired State law enforcement officers who retired under the Law
39 Enforcement Officers' Retirement System prior to January 1, 1985.
- 40 (2a) Surviving spouses of:
 - 41 a. Deceased retired employees, provided the death of the former
42 plan member occurred prior to October 1, 1986; and

- 1 b. Deceased teachers, State employees, and members of the General
2 Assembly who are receiving a survivor's alternate benefit under
3 any of the State-supported retirement programs, provided the
4 death of the former plan member occurred prior to October 1,
5 1986.
- 6 (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).
- 7 (3a) Employees of the General Assembly, not otherwise covered by this
8 section, as determined by the Legislative Services Commission, except
9 for legislative interns and pages.
- 10 (4) Members of the General Assembly.
- 11 (5) Notwithstanding the provisions of subsection (e) of this section,
12 employees on official leave of absence while completing a full-time
13 program in school administration in an approved program as a Principal
14 Fellow in accordance with Article 5C of Chapter 116 of the General
15 Statutes.
- 16 (6) Former employees eligible under G.S. 126-7.1(a3) during the
17 employee's period of priority consideration.
- 18 (b) The following person shall be eligible for coverage under the Plan, on a fully
19 contributory basis, subject to the provisions of G.S. 135-40.3:
- 20 (1) Repealed by Session Laws 1983, c. 761, s. 255.
- 21 (2) Former members of the General Assembly who enroll before October 1,
22 1986.
- 23 (2a) For enrollments after September 30, 1986, former members of the
24 General Assembly if covered under the Plan at termination of
25 membership in the General Assembly.
- 26 (3) Surviving spouses of deceased former members of the General
27 Assembly who enroll before October 1, 1986.
- 28 (3a) Employees of the General Assembly, not otherwise covered by this
29 section, as determined by the Legislative Services Commission, except
30 for legislative interns and pages.
- 31 (3b) For enrollments after September 30, 1986, surviving spouses of
32 deceased former members of the General Assembly, if covered under
33 the Plan at the time of death of the former member of the General
34 Assembly.
- 35 (4) All permanent part-time employees (designated as half-time or more) of
36 an employing unit who meets the conditions outlined in subdivision
37 (a)(1)a above, and who are not covered by the provisions of G.S. 135-
38 40.2(a)(1).
- 39 (4a) Permanent hourly employees as defined in G.S. 126-5(c4) who work
40 less than one-half of the workdays of each pay period.
- 41 (5) The spouses and eligible dependent children of enrolled employees,
42 retirees, and members of the General Assembly.

- 1 (6) Blind persons licensed by the State to operate vending facilities under
2 contract with the Department of Human Resources, Division of Services
3 for the Blind and its successors, who are:
4 a. Operating such a vending facility;
5 b. Former operators of such a vending facility whose service as an
6 operator would have made these operators eligible for an early or
7 service retirement allowance under Article 1 of this Chapter had
8 they been members of the Retirement System; and
9 c. Former operators of such a vending facility who attain five or
10 more years of service as operators and who become eligible for
11 and receive a disability benefit under the Social Security Act
12 upon cessation of service as an operator.
- 13 (7) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(j).
- 14 (8) Surviving spouses of deceased retirees and surviving spouses of
15 deceased teachers, State employees, and members of the General
16 Assembly provided the death of the former Plan member occurred after
17 September 30, 1986, and the surviving spouse was covered under the
18 Plan at the time of death.
- 19 (9) Repealed by Session Laws 1987, c. 857, s. 11.1.
- 20 (10) Any eligible dependent child of the deceased retiree, teacher, State
21 employee, or member of the General Assembly, provided the child was
22 covered at the time of death of the retiree, teacher, State employee, or
23 member of the General Assembly (or was in posse at the time and is
24 covered at birth under this Part), or was covered under the Plan on
25 September 30, 1986. Any eligible spouse or dependent child of a person
26 eligible under subdivision (8) of this subsection if the spouse or
27 dependent child was enrolled before October 1, 1986.
- 28 (11) Former employees eligible under G.S. 126-7.1(a3), their spouses, and
29 dependent children, after expiration of the employee's period of priority
30 consideration.
- 31 (c) No person shall be eligible for coverage as an employee or retired employee
32 and as a dependent of an employee or retired employee at the same time. In addition, no
33 person shall be eligible for coverage as a dependent of more than one employee or retired
34 employee at the same time.
- 35 (d) Former employees who are receiving disability retirement benefits or disability
36 income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided
37 the former employee has at least five years of retirement membership service at the time
38 of disability, shall be eligible for the benefit provisions of this Plan, as set forth in this
39 Part, on the same basis as a retired employee. Such coverage shall terminate as of the
40 end of the month in which such former employee is no longer eligible for disability
41 retirement benefits or disability income benefits pursuant to Article 6 of this Chapter.

1 (e) Employees on official leave of absence without pay may elect to continue this
2 group coverage at group cost provided that they pay the full employee and employer
3 contribution through the employing unit during the leave period.

4 (f) For the support of the benefits made available to any member vested at the
5 time of retirement, their spouses or surviving spouses, and the surviving spouses of
6 employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those
7 associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1,
8 the North Carolina Art Society, Inc., and the North Carolina Symphony Society, Inc.,
9 each association, organization or board shall pay to the Plan the full cost of providing
10 these benefits under this section as determined by the Board of Trustees of the Teachers'
11 and State Employees' Comprehensive Major Medical Plan. In addition, each association,
12 organization or board shall pay to the Plan an amount equal to the cost of the benefits
13 provided under this section to presently retired members of each association, organization
14 or board since such benefits became available at no cost to the retired member.

15 (g) An eligible surviving spouse and any eligible dependent child of a deceased
16 retiree, teacher, State employee, or member of the General Assembly shall be eligible for
17 group benefits under this section without waiting periods for preexisting conditions
18 provided coverage is elected within 90 days after the death of the former plan member.

19 (h) No person shall be eligible for coverage as an employee or retired employee or
20 as a dependent of an employee or retired employee upon a finding by the Executive
21 Administrator or Board of Trustees or by a court of competent jurisdiction that the
22 employee or dependent knowingly and willfully made or caused to be made a false
23 statement or false representation of a material fact in a claim for reimbursement of
24 medical services under the Plan."

25 Sec. 3. This act becomes effective July 1, 1995, and applies as to all active
26 State employees subject to the State Personnel Act on or after that date.