

GENERAL ASSEMBLY OF NORTH CAROLINA
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SENATE BILL 886
Pensions & Retirement and Aging Committee Substitute Adopted 6/24/16
Third Edition Engrossed 6/27/16
House Committee Substitute Favorable 6/30/16

Short Title: Retirement Amendments.

(Public)

Sponsors:

Referred to:

May 23, 2016

A BILL TO BE ENTITLED

AN ACT TO HONOR CAPTAIN BRADLEY LONG AND ALL FUTURE FIREFIGHTERS AND RESCUE SQUAD WORKERS KILLED IN THE LINE OF DUTY BY AMENDING THE NC FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION FUND TO PROVIDE A SURVIVORSHIP BENEFIT FOR MEMBERS KILLED IN THE LINE OF DUTY; TO CONSOLIDATE PUBLIC RECORDS LAWS RELATING TO RETIREMENT; AND TO MAKE OTHER RETIREMENT AND ADMINISTRATIVE CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 58-86-2 is amended by adding a new subdivision to read:

"(9a) "Killed in the line of duty" has the same meaning as in G.S. 143-166.2(c)."

SECTION 1.(b) G.S. 58-86-55 is amended by adding a new subsection to read:

"(d1) Benefits shall be paid in the following manner when a member is killed in the line of duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

(1) If the member had been receiving a monthly pension fund benefit prior to being killed in the line of duty, there shall be paid to the member's principal beneficiary, if only one principal beneficiary is eligible, an amount of one hundred seventy dollars (\$170.00) per month beginning the month following the member's month of death, payable until the beneficiary's death.

(2) If the member had been receiving a monthly pension fund benefit prior to being killed in the line of duty and the beneficiary is not payable as described in subdivision (1) of this subsection, a lump sum payment equal to the difference between the amount paid into the member's separate account by or on behalf of the member and the amount received by the member as a pensioner will be paid to the eligible beneficiaries, or if there are no eligible beneficiaries, shall be paid to the member's estate.

(3) If the member had not yet begun receiving a monthly benefit prior to being killed in the line of duty, there shall be paid to the member's principal beneficiary, if only one principal beneficiary is eligible, an amount of one hundred seventy dollars (\$170.00) per month beginning the month following the month the member would have attained age 55, or if the member had already attained age 55, beginning the month following the member's month of death, payable until the beneficiary's death.

(4) If the member had not begun receiving a monthly benefit prior to being killed in the line of duty and the beneficiary is not payable as described in subdivision



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1 (3) of this subsection, a lump sum payment equal to the member's contributions
2 will be paid to the eligible beneficiaries, or if there are no eligible beneficiaries,
3 a return of the contributions shall be paid to the member's estate.

4 A beneficiary under this subsection shall not be required to make the monthly payment of ten
5 dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after the member has been killed
6 in the line of duty."

7 **SECTION 1.(c)** G.S. 58-86-60 reads as rewritten:

8 "**§ 58-86-60. Payments in lump sums.**

9 The board shall direct payment in lump sums from the fund in the following cases:

10 (1) To any firefighter or rescue squad worker upon the attaining of the age of 55
11 years, who, for any reason, is not qualified to receive the monthly retirement
12 pension and who was enrolled as a member of the fund, an amount equal to the
13 amount paid into the fund by him. This provision shall not be construed to
14 preclude any active firefighter or rescue squad worker from completing the
15 requisite number of years of active service after attaining the age of 55 years
16 necessary to entitle the firefighter or rescue squad worker to the pension.

17 (2) If any firefighter or rescue squad worker ~~dies~~dies, except if the individual is
18 killed in the line of duty, before attaining the age at which a pension is payable
19 to the firefighter or rescue squad worker under the provisions of this Article,
20 there shall be paid to his or her surviving spouse, or if there be no surviving
21 spouse, to the person responsible for his or her child or children, or if there be
22 no surviving spouse or children, then to his or her heirs at law as may be
23 determined by the board or to his or her estate, if it is administered and there are
24 no heirs, to the person or persons designated by the member, or if the member
25 has not designated a beneficiary, to the surviving spouse of the deceased
26 member, or if not survived by a designated beneficiary or spouse, to the
27 deceased member's legal representative, an amount equal to the amount paid
28 into the member's separate account by or on behalf of the said firefighter or
29 rescue squad worker.

30 (3) If any firefighter or rescue squad worker ~~dies~~dies, except if the individual is
31 killed in the line of duty, after beginning to receive the pension payable to the
32 firefighter or rescue squad worker by this Article, and before receiving an
33 amount equal to the amount paid into the fund by him or her, there shall be paid
34 to his or her surviving spouse, or if there be no surviving spouse, then to the
35 person responsible for his or her child or children, or if there be no surviving
36 spouse or children, then to his or her heirs at law as may be determined by the
37 board or to his or her estate, if it is administered and there are no heirs, to the
38 person or persons designated by the member, or if the member has not
39 designated a beneficiary, to the surviving spouse of the deceased retired
40 member, or if not survived by a designated beneficiary or spouse, to the
41 deceased retired member's legal representative, an amount equal to the
42 difference between the amount paid into the member's separate account by or
43 on behalf of the said firefighter or rescue squad worker and the amount received
44 by him or her as a pensioner.

45 (4) Any member who withdraws from the fund shall, upon proper application, be
46 paid all moneys without accumulated earnings on the payments after the time
47 they were made. A member may not purchase time under G.S. 58-86-45 for
48 which he or she has received a refund."

49 **SECTION 1.(d)** G.S. 58-86-55 is amended by adding a new subsection to read:

50 "(d2) Benefits shall be paid in the following manner when a member is killed in the line of
51 duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

- 1 (1) If the member had been receiving a monthly pension fund benefit prior to being
2 killed in the line of duty, there shall be paid to the member's spouse an amount
3 of one hundred seventy dollars (\$170.00) per month beginning the month
4 following the member's month of death, payable until the spouse's death.
- 5 (2) If the member had been receiving a monthly pension fund benefit prior to being
6 killed in the line of duty and the spouse is not payable as described in
7 subdivision (1) of this subsection, a lump sum payment equal to the difference
8 between the amount paid into the member's separate account by or on behalf of
9 the member and the amount received by the member as a pensioner will be paid
10 to the member's estate.
- 11 (3) If the member had not yet begun receiving a monthly benefit prior to being
12 killed in the line of duty, there shall be paid to the member's spouse an amount
13 of one hundred seventy dollars (\$170.00) per month beginning the month
14 following the month the member would have attained age 55, or if the member
15 had already attained age 55, beginning the month following the member's
16 month of death, payable until the spouse's death.
- 17 (4) If the member had not begun receiving a monthly benefit prior to being killed
18 in the line of duty and the spouse is not payable as described in subdivision (3)
19 of this subsection, a lump sum payment equal to the member's contributions
20 will be paid to the eligible beneficiaries, or if there are no eligible beneficiaries,
21 a return of the contributions shall be paid to the member's estate.

22 A beneficiary under this subsection shall not be required to make the monthly payment of ten
23 dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after the member has been killed
24 in the line of duty."

25 **SECTION 1.(e)** Section 1(a) and 1(d) become effective June 1, 2016, and apply to
26 benefits paid when a member is killed in the line of duty on or after June 1, 2016, but before July
27 1, 2018. Section 1(e) becomes effective June 1, 2016. Section 1(b) and 1(c) become effective July
28 1, 2018, and apply to benefits paid when a member is killed in the line of duty on or after that
29 date.

30 **SECTION 1.(f)** G.S. 58-86-55(d2) is repealed July 1, 2018.

31 **SECTION 2.(a)** The February 5, 2008, Attorney General's advisory opinion entitled
32 "Advisory Opinion: Confidentiality of Retirement Benefit Information; Session Law 2007-508"
33 concluded that information about retirement benefits was intended to be included among those
34 records required to be maintained for public inspection by each department, agency, institution,
35 commission, and bureau of the State and that as a result the Retirement Systems Division of the
36 Department of the State Treasurer makes that information available for public inspection and
37 examination. The General Assembly finds that the interests of clarity require statutory language
38 providing guidance to the Retirement Systems Division in determining and maintaining
39 consistency as to what information should be made available about the retirement accounts of
40 State and local employees.

41 **SECTION 2.(b)** Article 1 of Chapter 135 of the General Statutes is amended by
42 adding a new section to read:

43 "**§ 135-6.1. Member retirement record files held by the Retirement System.**

44 (a) The following definitions apply in this section:

- 45 (1) Employment-related information. – As defined in G.S. 126-22(b)(3).
46 (2) Personal information. – As defined in G.S. 126-22(b)(3).
47 (3) Retirement file. – Any employment-related, retirement-related, or personal
48 information of members in a State-administered retirement plan gathered by the
49 Retirement Systems Division of the Department of State Treasurer.
50 (4) Retirement-related information. – Information including membership and
51 service details, benefit payment information, and other information the

- 1 Retirement Systems Division of the Department of State Treasurer deems
2 necessary to administer a retirement plan.
- 3 (b) Member retirement files are not subject to inspection and examination as authorized by
4 G.S. 132-6 except as provided in G.S. 135-6(p), G.S. 128-28(q), and subsections (c), (d), and (e)
5 of this section.
- 6 (c) The following information regarding members and individuals in receipt of a recurring
7 monthly benefit, if held by the Retirement System, is public and subject to subsection (d) of this
8 section:
- 9 (1) Name.
10 (2) Age.
11 (3) Date of membership in the applicable Retirement System, first service earned
12 date, date of first enrollment, date of first employment, and date of retirement.
13 (4) The terms of any contract by which the member is employed whether written or
14 oral, past and current, to the extent that the Retirement System has the written
15 contract or a record of the oral contract in its possession.
16 (5) Current or most recently held position or title.
17 (6) Compensation and other relevant remuneration history and benefits paid.
18 (7) Date, general description, and type of each change and the corresponding
19 employing agency.
20 (8) The office or station to which the member is currently assigned, if any.
21 (9) The record of benefit payments made by one of the Retirement Systems or
22 Disability Benefits Programs administered by the Department of State
23 Treasurer to a member or to the survivor, beneficiary, or alternate payee of a
24 member.
25 (10) Purchases of educational leave.
- 26 (d) Subject only to rules and policies for the safekeeping of member retirement files
27 adopted by the Board of Trustees, every person having custody of the retirement file information
28 outlined in subsection (b) of this section shall permit the information to be inspected and examined
29 and copies thereof made by any person during regular business hours. Any person who is denied
30 access to any retirement file for the purpose of inspecting, examining, or copying the file has a
31 right to compel compliance with the provisions of this section by application to a court of
32 competent jurisdiction for a writ of mandamus or other appropriate relief.
- 33 (e) The Retirement Systems Division of the Department of State Treasurer may disclose
34 the name and mailing address of former State employees, former public school employees, or
35 former community college employees to domiciled, nonprofit organizations representing 10,000
36 or more retired State government, local government, or public school employees.
- 37 (f) All information other than the information listed in subsection (c) of this section
38 contained in a retirement file is confidential and not open for inspection and examination except to
39 the following persons:
- 40 (1) The member, or the member's authorized agent, who may examine his or her
41 own retirement file, except for any information concerning a medical disability,
42 mental or physical, that a prudent physician would not divulge to a patient. A
43 member's medical record may be disclosed to a licensed physician in writing by
44 the member.
45 (2) A member of the General Assembly who may inspect and examine records
46 under the authority of G.S. 120-19.
47 (3) A party by authority of a proper court order may inspect and examine a
48 particular confidential portion of a member's retirement file.
- 49 (g) Any public official or employee who knowingly and willfully permits any person to
50 have access to or custody or possession of any portion of a retirement file designated as
51 confidential by this section, unless the person is one specifically authorized by this section to have

1 access thereto for inspection and examination, is guilty of a Class 3 misdemeanor and upon
2 conviction shall only be fined in the discretion of the court but not in excess of five hundred
3 dollars (\$500.00).

4 (h) Any person not specifically authorized by this section to have access to a retirement
5 file designated as confidential by this section, who knowingly and willfully examines, removes, or
6 copies any portion of a confidential retirement file, is guilty of a Class 3 misdemeanor and upon
7 conviction shall be fined in the discretion of the court but not in excess of five hundred dollars
8 (\$500.00)."

9 **SECTION 2.(c)** Article 3 of Chapter 128 of the General Statutes is amended by
10 adding a new section to read:

11 **"§ 128-33.1. Public records held by the Retirement System.**

12 (a) The following definitions apply in this section:

13 (1) Employment-related information. – As defined in G.S. 126-22(b)(3).

14 (2) Personal information. – As defined in G.S. 126-22(b)(3).

15 (3) Retirement file. – Any employment-related, retirement-related, or personal
16 information of members in a State-administered retirement plan gathered by the
17 Retirement Systems Division of the Department of State Treasurer.

18 (4) Retirement-related information. – Information including membership and
19 service details, benefit payment information, and other information the
20 Retirement Systems Division of the Department of State Treasurer deems
21 necessary to administer a retirement plan.

22 (b) Member retirement files are not subject to inspection and examination as authorized by
23 G.S. 132-6 except as provided in G.S. 135-6(p), G.S. 128-28(q), and subsections (c), (d), and (e)
24 of this section.

25 (c) The following information regarding members and individuals in receipt of a recurring
26 monthly benefit, if held by the Retirement System, is public subject to subsection (d) of this
27 section:

28 (1) Name.

29 (2) Age.

30 (3) Date of membership in the applicable Retirement System, first service earned
31 date, date of first enrollment, date of first employment, and date of retirement.

32 (4) The terms of any contract by which the member is employed whether written or
33 oral, past and current, to the extent that the Retirement System has the written
34 contract or a record of the oral contract in its possession.

35 (5) Current or most recently held position or title.

36 (6) Compensation and other relevant remuneration history and benefits paid.

37 (7) Date, general description, and type of each change and the corresponding
38 employing agency.

39 (8) The office or station to which the member is currently assigned, if any.

40 (9) The record of benefit payments made by one of the Retirement Systems or
41 Disability Benefits Programs administered by the Department of State
42 Treasurer to a member or to the survivor, beneficiary, or alternate payee of a
43 member.

44 (10) Purchases of educational leave.

45 (d) Subject only to rules and policies for the safekeeping of member retirement files
46 adopted by the Board of Trustees, every person having custody of the retirement file information
47 outlined in subsection (b) of this section shall permit the information to be inspected and examined
48 and copies thereof made by any person during regular business hours. Any person who is denied
49 access to any retirement file for the purpose of inspecting, examining, or copying the file has a
50 right to compel compliance with the provisions of this section by application to a court of
51 competent jurisdiction for a writ of mandamus or other appropriate relief.

1 (e) The Retirement Systems Division of the Department of State Treasurer may disclose
2 the name and mailing address of former State employees, former public school employees, or
3 former community college employees to domiciled, nonprofit organizations representing 10,000
4 or more retired State government, local government, or public school employees.

5 (f) All information other than the information listed in subsection (c) of this section
6 contained in a retirement file is confidential and not open for inspection and examination except to
7 the following persons:

8 (1) The member, or the member's authorized agent, who may examine his or her
9 own retirement file, except for any information concerning a medical disability,
10 mental or physical, that a prudent physician would not divulge to a patient. A
11 member's medical record may be disclosed to a licensed physician in writing by
12 the member.

13 (2) A member of the General Assembly who may inspect and examine records
14 under the authority of G.S. 120-19.

15 (3) A party by authority of a proper court order may inspect and examine a
16 particular confidential portion of a member's retirement file.

17 (g) Any public official or employee who knowingly and willfully permits any person to
18 have access to or custody or possession of any portion of a retirement file designated as
19 confidential by this section, unless the person is one specifically authorized by this section to have
20 access thereto for inspection and examination, is guilty of a Class 3 misdemeanor and upon
21 conviction shall only be fined in the discretion of the court but not in excess of five hundred
22 dollars (\$500.00).

23 (h) Any person not specifically authorized by this section to have access to a retirement
24 file designated as confidential by this section, who knowingly and willfully examines, removes, or
25 copies any portion of a confidential retirement file, is guilty of a Class 3 misdemeanor and upon
26 conviction shall be fined in the discretion of the court but not in excess of five hundred dollars
27 (\$500.00)."

28 **SECTION 2.(d)** G.S. 126-22 reads as rewritten:

29 **"§ 126-22. Personnel files not subject to inspection under § 132-6.**

30 (a) Except as provided in G.S. 126-23 and G.S. 126-24, personnel files of State employees
31 shall not be subject to inspection and examination as authorized by G.S. 132-6.

32 (b) For purposes of this Article the following definitions apply:

33 (1) "Employee" means any current State employee, former State employee, or
34 applicant for State employment.

35 (2) "Employer" means any State department, university, division, bureau,
36 commission, council, or other agency subject to Article 7 of this Chapter.

37 (3) "Personnel file" means any employment-related or personal information
38 gathered by an employer, ~~the Retirement Systems Division of the Department~~
39 ~~of State Treasurer, employer~~ or by the Office of State Human Resources.
40 Employment-related information contained in a personnel file includes
41 information related to an individual's application, selection, promotion,
42 demotion, transfer, leave, salary, contract for employment, benefits, suspension,
43 performance evaluation, disciplinary actions, and termination. Personal
44 information contained in a personnel file includes an individual's home address,
45 social security number, medical history, personal financial data, marital status,
46 dependents, and beneficiaries.

47 (4) "Record" means the personnel information that each employer is required to
48 maintain in accordance with G.S. 126-23.

49 (c) Personnel files of former State employees who have been separated from State
50 employment for 10 or more years may be open to inspection and examination except for papers
51 and documents relating to demotions and to disciplinary actions resulting in the dismissal of the

1 ~~employee and personnel files maintained by the Retirement Systems Division of the Department~~
2 ~~of State Treasurer.~~employee. Retirement files maintained by the Retirement Systems Division of
3 the Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and
4 G.S. 135-6.1.

5 (d) ~~Notwithstanding any provision of this section to the contrary, the Retirement Systems~~
6 ~~Division of the Department of State Treasurer may disclose the name and mailing address of~~
7 ~~former State employees to domiciled, nonprofit organizations representing 10,000 or more retired~~
8 ~~State government, local government, or public school employees."~~

9 SECTION 2.(e) G.S. 115C-321(b1) is repealed.

10 SECTION 2.(f) G.S. 115D-29(c) is repealed.

11 SECTION 2.(g) G.S. 153A-98(c3) is repealed.

12 SECTION 2.(h) G.S. 160A-168(c3) is repealed.

13 SECTION 3.(a) G.S. 135-10.1 reads as rewritten:

14 **"§ 135-10.1. Failure to respond.**

15 If a member fails to respond within 120 days after preliminary option figures and the Form 6-E
16 or Form 7-E are ~~mailed,~~transmitted to the member, or if a member fails to respond within 120
17 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null
18 and void; the retirement system shall not be liable for any benefits due on account of the voided
19 application, and a new application must be filed establishing a subsequent effective date of
20 retirement. If an applicant for disability retirement fails to furnish requested additional medical
21 information within 90 days following such request, the application shall be declared null and void
22 under the same conditions outlined above, unless the applicant is eligible for early or service
23 retirement in which case the application shall be processed accordingly, using the same effective
24 date as would have been used had the application for disability retirement been approved. The
25 Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may
26 extend the 120-day limitation provided for in this section when a member has suffered
27 incapacitation such that a reasonable person would not have expected the member to be able to
28 complete the required paperwork within the regular deadline, or when an omission by the
29 Retirement Systems Division prevents the member from having sufficient time to meet the regular
30 deadline."

31 SECTION 3.(b) G.S. 128-32.1 reads as rewritten:

32 **"§ 128-32.1. Failure to respond.**

33 If a member fails to respond within 120 days after preliminary option figures and the Form 6-E
34 or Form 7-E are ~~mailed,~~transmitted to the member, or if a member fails to respond within 120
35 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null
36 and void; the retirement system shall not be liable for any benefits due on account of the voided
37 application, and a new application must be filed establishing a subsequent effective date of
38 retirement. If an applicant for disability retirement fails to furnish requested additional medical
39 information within 90 days following such request, the application shall be declared null and void
40 under the same conditions outlined above, unless the applicant is eligible for early or service
41 retirement in which case the application shall be processed accordingly, using the same effective
42 date as would have been used had the application for disability retirement been approved. The
43 Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may
44 extend the 120-day limitation provided for in this section when a member has suffered
45 incapacitation such that a reasonable person would not have expected the member to be able to
46 complete the required paperwork within the regular deadline, or when an omission by the
47 Retirement Systems Division prevents the member from having sufficient time to meet the regular
48 deadline."

49 SECTION 4. G.S. 147-79(a) reads as rewritten:

50 "(a) The amount of funds deposited by the State Treasurer in an official depository shall be
51 adequately secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home

1 Loan Bank, or investment securities of such nature, in such amounts, and in such manner, as may
 2 be prescribed by rule or regulation of the State Treasurer with the approval of the Governor and
 3 Council of State. No security is required for the protection of funds remitted to and received by a
 4 bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying
 5 agent for the payment of the principal of or interest on bonds or notes of the State."

6 **SECTION 5.** The Board of Trustees of the Local Governmental Employees'
 7 Retirement System shall develop a "State Contribution Rate Stabilization Policy" for the North
 8 Carolina Firefighters' and Rescue Squad Workers' Pension Fund and report it to the Office of State
 9 Budget and Management and the Fiscal Research Division on or before March 1, 2017.

10 **SECTION 6.(a)** G.S. 135-6(b) reads as rewritten:

11 "(b) Membership of Board; Terms. – The Board shall consist of the following 13 members,
 12 as follows:members:

13 (1) The State Treasurer, ~~ex officio;~~officio.

14 (2) The Superintendent of Public Instruction, ~~ex officio;~~officio.

15 (3) The Director of the Office of State Human Resources, ex officio.

16 ~~(3)(4) NineEight~~ members to be appointed by the Governor and confirmed by the
 17 Senate of North Carolina. One of the appointive members shall be a member of
 18 the teaching profession of the State; ~~one of the appointive members shall be a~~
 19 ~~representative of higher education appointed by the Governor for a term of four~~
 20 ~~years commencing July 1, 1969, and quadrennially thereafter;~~ one of the
 21 appointive members shall be a retired teacher who is drawing a retirement
 22 allowance, appointed by the Governor for a term of four years commencing
 23 July 1, 1969, and quadrennially thereafter; one shall be a retired State employee
 24 who is drawing a retirement allowance, appointed by the Governor for a term of
 25 four years commencing July 1, 1977, and quadrennially thereafter; one to be a
 26 general State employee, and two who are not members of the teaching
 27 profession or State employees; two to be appointed for a term of two years, two
 28 for a term of three years and one for a term of four years; one appointive
 29 member shall be a law-enforcement officer employed by the State, appointed by
 30 the Governor, for a term of four years commencing April 1, 1985. One member
 31 shall be an active or retired member of the North Carolina National Guard
 32 appointed by the Governor for a term of four years commencing July 1, 2013.
 33 At the expiration of these terms of office the appointment shall be for a term of
 34 four years;years.

35 ~~(4)(5)~~ Two members appointed by the General Assembly, one appointed upon the
 36 recommendation of the Speaker of the House of Representatives, and one
 37 appointed upon the recommendation of the President Pro Tempore of the
 38 Senate in accordance with G.S. 120-121. Neither of these members may be an
 39 active or retired teacher or State employee or an employee of a unit of local
 40 government. The initial members appointed by the General Assembly shall
 41 serve for terms expiring June 30, 1983. Thereafter, their successors shall serve
 42 for two-year terms beginning July 1 of odd-numbered years. Vacancies in
 43 appointments made by the General Assembly shall be filled in accordance with
 44 G.S. 120-122."

45 **SECTION 6.(b)** G.S. 135-6(g) reads as rewritten:

46 "(g) Officers and Other Employees; Salaries and Expenses. – The State Treasurer shall be
 47 ~~ex officio chairman~~chair of the Board of Trustees. ~~The Board of Trustees shall, by a majority vote~~
 48 ~~of all the members, appoint a director, who may be, but need not be, one of its members. The~~
 49 ~~salary of the director of the Retirement System is subject to the provisions of Chapter 126 of the~~
 50 ~~General Statutes of North Carolina.~~ Trustees and shall appoint a director. The Board of Trustees
 51 shall engage such actuarial and other service as shall be required to transact the business of the

1 Retirement System. The compensation of all persons, other than the director, engaged by the
2 Board of Trustees, and all other expenses of the Board necessary for the operation of the
3 Retirement System, shall be paid at such rates and in such amounts as the Board of Trustees shall
4 approve, subject to the approval of the Director of the Budget."

5 **SECTION 6.(c)** G.S. 136-6(o) reads as rewritten:

6 "(o) On the basis of such tables and interest assumption rate as the Board of Trustees shall
7 adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the
8 System created by this Chapter. The annual valuation shall include a supplementary section that
9 provides an analysis of assets on a market basis using the 30-year treasury rate as of December 31
10 of the year of the valuation as the discount rate."

11 **SECTION 6.(d)** G.S. 128-28(h) reads as rewritten:

12 "(h) Officers and Other Employees, Salaries and Expenses. – ~~The Board of Trustees shall~~
13 ~~elect from its membership a chairman, and shall, by a majority vote of all the members, appoint a~~
14 ~~director, who may be, but need not be, one of its members.~~ The State Treasurer shall be ex officio
15 chair of the Board of Trustees and shall appoint a director. The Board of Trustees shall engage
16 such actuarial and other service as shall be required to transact the business of the Retirement
17 System. The compensation of all persons engaged by the Board of Trustees, and all other expenses
18 of the Board necessary for the operation of the Retirement System, shall be paid at such rates and
19 in such amounts as the Board of Trustees shall approve."

20 **SECTION 6.(e)** G.S. 128-28(p) reads as rewritten:

21 "(p) On the basis of such tables and interest assumption rate as the Board of Trustees shall
22 adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the
23 System created by this Chapter. The annual valuation shall include a supplementary section that
24 provides an analysis of assets on a market basis using the 30-year treasury rate as of December 31
25 of the year of the valuation as the discount rate."

26 **SECTION 7.(a)** G.S. 115C-341.2 reads as rewritten:

27 **"§ 115C-341.2. Department of State Treasurer sponsored 403(b) option.**

28 (a) In addition to the opportunities for local boards of education to offer section 403(b) of
29 the Internal Revenue Code of 1986 retirement annuities and/or mutual funds to their employees
30 under G.S. 115C-341, the Department of State Treasurer may establish an approved third-party
31 vendor of retirement offerings as described in section 403(b) of the Internal Revenue Code of
32 1986, as now and hereafter amended, pursuant to which employees of local school boards may
33 enter into nonforfeitable 403(b) plan options by way of salary reduction through the auspices of
34 the Department of State Treasurer. This statewide plan of 403(b) offerings shall be known as the
35 "North Carolina Public School Teachers' and Professional Educators' Investment Plan." The
36 vendor authorized under this section shall be selected by use of ~~State~~ Supplemental Retirement
37 Board of Trustees ~~procurement procedures,~~ procedures under Article 5 of Chapter 135 of the
38 General Statutes, with the goal of attaining lower administrative fees and enhanced services for
39 participants and employer compliance with applicable law and regulations. Eligible employees of
40 local school boards shall all be allowed to use this vendor for the tax-deferred 403(b) option of
41 their choice.

42 (b) The criteria in this subsection apply to the Department of State Treasurer's 403(b)
43 offerings to employees of local school boards under this section.

44 (1) Annuity contracts, trust accounts, and/or custodial accounts shall be
45 administered by a qualified third-party administrator that shall, under written
46 agreement with the Department of State Treasurer, provide custodial,
47 record-keeping, and administrative services. The third-party administrator may
48 also be the selected vendor for the North Carolina Public School Teachers' and
49 Professional Educators' Investment Plan.

1 For employers choosing to participate in the North Carolina Public School
2 Teachers' and Professional Educators' Investment Plan, the third-party
3 administrator shall, at a minimum, provide the following:

- 4 a. Maintain a written plan document.
- 5 b. Review hardship withdrawal requests, loan requests, and other
6 disbursements permitted under section 403(b) of the Internal Revenue
7 Code of 1986.
- 8 c. Maintain specimen salary reduction agreements for the employer and
9 employees of that employer to initiate payroll deferrals.
- 10 d. Monitor maximum contributions.
- 11 e. Coordinate responses to the Internal Revenue Service in any case of an
12 IRS audit.
- 13 f. Generate educational communication materials to employees concerning
14 the enrollment process, program eligibility, and investment options.
- 15 g. Maintain internal reports to ensure compliance with Section 403(b) of
16 the Internal Revenue Code and Title 26 of the Code of Federal
17 Regulations.
- 18 h. Provide compliance monitoring/oversight for all 403(b) plans
19 established under G.S. 115C-341 within each participating local board
20 of education plan by creating and establishing the necessary connections
21 and processes with existing and future vendors.
- 22 i. Keep an updated schedule of vendor fees and commissions as to the
23 Department's statewide ~~plan-plan~~ of 403(b) offerings.

24 (2) Governance and oversight of the North Carolina Public School Teachers' and
25 Professional Educators' Investment Plan will be performed under Article 5 of
26 Chapter 135 of the General Statutes by the Department of State Treasurer and
27 the Supplemental Retirement Board of Trustees ~~for the North Carolina~~
28 ~~Supplemental Retirement Plans~~ established pursuant to G.S. 135-96. Because of
29 the administrative and record-keeping duties enumerated in subdivision (1) of
30 this subsection, any existing vendor of a 403(b) with a participating employer
31 must either agree to share data with the State's 403(b) vendor under this
32 provision (so as to permit oversight over contribution limits, loans, and
33 hardship withdrawals) or be directed by the participating employer to cease
34 accepting new contributions, loans, and hardship withdrawals.

35 (3) Investment options shall be solely determined by the Department of State
36 Treasurer and the Supplemental Retirement Board of Trustees ~~for the North~~
37 ~~Carolina Supplemental Retirement Plans~~ consistent with section 403(b) of the
38 Internal Revenue Code of 1986, as amended.

39 (4) Investment staff of the Department of State Treasurer may make
40 recommendations to the State Treasurer and the Supplemental Retirement
41 Board of Trustees ~~for the North Carolina Supplemental Retirement Plans~~ as to
42 appropriate investment options. The Pursuant to G.S. 135-96, the State
43 Treasurer and Board of Trustees shall have sole responsibility for the selection
44 of the vendor, third-party administrator, providers of investment options, and
45 any other service provider for the North Carolina Public School Teachers' and
46 Professional Educators' Investment Plan.

47 (5) All contributions made in accordance with the provisions of section 403(b) of
48 the Internal Revenue Code of 1986, as amended, and this section shall be
49 remitted directly to the administrator and held by the administrator in a
50 custodial account on behalf of each participating employee. Any investment
51 gains or losses shall be credited to those accounts. The forms of payment and

1 disbursement procedures shall be consistent with those generally offered by
2 similar annuity contracts, trust accounts, and custodial accounts and applicable
3 federal and State statutes governing those contracts and accounts.

4 (6) Any local board of education may elect to make contributions to the employee's
5 account on behalf of the employee. The employer shall take whatever action is
6 necessary to implement this section.

7 (7) The design and administration of annuity contracts, trust accounts, and
8 custodial accounts under this provision shall comply with all applicable
9 provisions of the Internal Revenue Code of 1986, as amended."

10 **SECTION 7.(b)** G.S. 115D-25.4(b) reads as rewritten:

11 "(b) The criteria in this subsection apply to the Department of State Treasurer's 403(b)
12 offerings to employees of local boards of trustees under this section:

13 (1) Annuity contracts, trust accounts, and/or custodial accounts shall be
14 administered by a qualified third-party administrator that shall, under written
15 agreement with the Department of State Treasurer, provide custodial,
16 record-keeping, and administrative services. The third-party administrator may
17 also be the selected vendor for the North Carolina Public School Teachers' and
18 Professional Educators' Investment Plan.

19 For local boards of trustees as employers choosing to participate in the
20 North Carolina Public School Teachers' and Professional Educators' Investment
21 Plan, the third-party administrator shall, at a minimum, provide the following:

- 22 a. Maintain a written plan document.
- 23 b. Review hardship withdrawal requests, loan requests, and other
24 disbursements permitted under section 403(b) of the Internal Revenue
25 Code of 1986.
- 26 c. Maintain specimen salary reduction agreements for the employer and
27 employees of that employer to initiate payroll deferrals.
- 28 d. Monitor maximum contributions.
- 29 e. Coordinate responses to the Internal Revenue Service in any case of an
30 IRS audit.
- 31 f. Generate educational communication materials to employees concerning
32 the enrollment process, program eligibility, and investment options.
- 33 g. Maintain internal reports to ensure compliance with section 403(b) of
34 the Internal Revenue Code and Title 26 of the Code of Federal
35 Regulations.
- 36 h. Provide compliance monitoring/oversight for all 403(b) plans
37 established under G.S. 115D-25 within each participating local board of
38 trustees plan by creating and establishing the necessary connections and
39 processes with existing and future vendors.
- 40 i. Keep an updated schedule of vendor fees and commissions as to the
41 Department's statewide plan ~~plan~~ of 403(b) offerings.

42 (2) Governance and oversight of the North Carolina Public School Teachers' and
43 Professional Educators' Investment Plan will be performed under Article 5 of
44 Chapter 135 of the General Statutes by the Department of State Treasurer and
45 the Supplemental Retirement Board of Trustees ~~for the North Carolina~~
46 ~~Supplemental Retirement Plans~~ established pursuant to G.S. 135-96. Because of
47 the administrative and record-keeping duties enumerated in subdivision (1) of
48 this subsection, any existing vendor of a 403(b) with a participating employer
49 must either agree to share data with the State's 403(b) vendor under this
50 provision (so as to permit oversight over contribution limits, loans, and

1 hardship withdrawals) or be directed by the participating employer to cease
2 accepting new contributions, loans, and hardship withdrawals.

3 (3) Investment options shall be solely determined by the Department of State
4 Treasurer and the Supplemental Retirement Board of Trustees for the North
5 Carolina Supplemental Retirement Plans consistent with section 403(b) of the
6 Internal Revenue Code of 1986, as amended.

7 (4) Investment staff of the Department of State Treasurer may make
8 recommendations to the State Treasurer and the Supplemental Retirement
9 Board of Trustees for the North Carolina Supplemental Retirement Plans as to
10 appropriate investment options. The Pursuant to G.S. 135-96, the State
11 Treasurer and Board of Trustees shall have sole responsibility for the selection
12 of the vendor, third-party administrator, providers of investment options, and
13 any other service provider for the North Carolina Public School Teachers' and
14 Professional Educators' Investment Plan.

15 (5) All contributions made in accordance with the provisions of section 403(b) of
16 the Internal Revenue Code of 1986, as amended, and this section shall be
17 remitted directly to the administrator and held by the administrator in a
18 custodial account on behalf of each participating employee. Any investment
19 gains or losses shall be credited to those accounts. The forms of payment and
20 disbursement procedures shall be consistent with those generally offered by
21 similar annuity contracts, trust accounts, and custodial accounts and applicable
22 federal and State statutes governing those contracts and accounts.

23 (6) Any local board of trustees may elect to make contributions to the employee's
24 account on behalf of the employee. The local board of trustees shall take
25 whatever action is necessary to implement this section.

26 (7) The design and administration of annuity contracts, trust accounts, and
27 custodial accounts under this provision shall comply with all applicable
28 provisions of the Internal Revenue Code of 1986, as amended."

29 **SECTION 8.** G.S. 135-109 reads as rewritten:

30 **"§ 135-109. Reports of earnings.**

31 The Department of State Treasurer and Board of Trustees ~~shall~~ may require each beneficiary to
32 annually provide a statement of the beneficiary's income received as compensation for services,
33 including fees, commissions, or similar items, income received from business, and benefits
34 received from the Social Security Administration, the federal Veterans Administration, any other
35 federal agency, under the North Carolina Workers' Compensation Act, or under the provisions of
36 G.S. 127A-108. The benefit payable to a beneficiary who does not or refuses to provide the
37 information requested within ~~60~~ 120 days after such request ~~shall not be paid a benefit~~ may be
38 suspended until the information so requested is provided, and should such refusal or failure to
39 provide such information continue for ~~240~~ 180 days after such request the right of a beneficiary to
40 a benefit under the Article may be terminated."

41 **SECTION 9.** If any provision of this act or its application is held invalid, the
42 invalidity does not affect other provisions or applications of this act that can be given effect
43 without the invalid provisions or application, and to this end, the provisions of this act are
44 severable.

45 **SECTION 10.** Except as otherwise provided, this act is effective when it becomes
46 law.