

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 176

Short Title: Pensions Integrity Act of 2017.-AB (Public)

Sponsors: Representatives Ross, Collins, and McNeill (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement

February 23, 2017

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES THAT WILL ASSIST IN PREVENTING AND DETECTING FRAUD, WASTE, AND ABUSE AND IN ENSURING THE FISCAL INTEGRITY OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE RETIREE HEALTH BENEFIT, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-1(7b) is recodified as G.S. 135-1(7c).

SECTION 1.(b) G.S. 135-1, as amended by Section 1(a) of this act, is amended by adding a new subdivision to read:

"(7b) "Compliance investigation" means an independent review or examination by Retirement Systems Division staff or authorized representatives who are assisting the Retirement Systems Division staff of records, activities, actions, or decisions by employers or other affiliated or associated entities having an impact on a Retirement System or benefits administered by the Board of Trustees. The purpose of a compliance investigation is to help detect errors and ensure compliance and full accountability in the use of pension funds."

SECTION 1.(c) G.S. 135-1(11b) reads as rewritten:

"(11b) "Fraud investigation" means an independent review or examination by Retirement Systems Division staff or authorized representatives who are assisting the Retirement Systems Division staff of records, activities, actions, or decisions by employers or other affiliated or associated entities having an impact on the Retirement System. The purpose of a fraud investigation is to help detect and prevent fraud and to ensure full accountability in the use of pension funds."

SECTION 1.(d) G.S. 135-6 reads as rewritten:

"§ 135-6. Administration.

...

(q) Compliance Investigations and Fraud Investigations – Access to Persons and Records. In the course of conducting a compliance investigation or a fraud investigation, the Retirement Systems Division, or authorized representatives who are assisting the Retirement Systems Division staff, shall:

(1) Have ready access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any employer. The review of State tax returns shall be



1 limited to matters of official business, and the Division's report shall not violate
2 the confidentiality provisions of tax laws.

3 (2) Have such access to persons, records, papers, reports, vouchers,
4 correspondence, books, and any other documentation that is in the possession
5 of any individual, private corporation, institution, association, board, or other
6 organization that pertain to the following:

7 a. Amounts received pursuant to a grant or contract from the federal
8 government, the State, or its political subdivisions.

9 b. Amounts received, disbursed, or otherwise handled on behalf of the
10 federal government or the State.

11 (3) Have the authority, and shall be provided with ready access, to examine and
12 inspect all property, equipment, and facilities in the possession of any employer
13 agency or any individual, private corporation, institution, association, board, or
14 other organization that were furnished or otherwise provided through grant,
15 contract, or any other type of funding by the employer agency.

16 With respect to the requirements of sub-subdivision (2)b. of this subsection, providers of social
17 and medical services to a beneficiary shall make copies of records they maintain for services
18 provided to a beneficiary available to the Retirement Systems Division, or to the authorized
19 representatives who are assisting the Retirement Systems Division staff. Copies of the records of
20 social and medical services provided to a beneficiary will permit verification of the health or other
21 status of a beneficiary as required for the payment of benefits under Article 1, Article 4, or Article
22 6 of this Chapter. The Retirement Systems Division, or authorized representatives who are
23 assisting the Retirement Systems Division staff, shall request records in writing by providing the
24 name of each beneficiary for whom records are sought, the purpose of the request, the statutory
25 authority for the request, and a reasonable period of time for the production of record copies by the
26 provider. A provider may charge, and the Retirement Systems Division, or authorized
27 representatives who are assisting the Retirement Systems Division staff, shall, in accordance with
28 G.S. 90-411, pay a reasonable fee to the provider for copies of the records provided in accordance
29 with this subsection.

30 (r) Compliance or Fraud Investigative Reports and Work Papers. – The Director of the
31 Retirement Systems Division shall maintain for 10 years a complete file of all compliance
32 investigative reports, fraud investigative reports and reports of other examinations, investigations,
33 surveys, and reviews issued under the Director's authority. Fraud or compliance investigation
34 work papers and other evidence or related supportive material directly pertaining to the work of
35 the Retirement Systems Division of the Department of State Treasurer shall be retained according
36 to an agreement between the Director of Retirement and State Archives. To promote
37 intergovernmental cooperation and avoid unnecessary duplication of fraud and compliance
38 investigative effort, efforts, and notwithstanding local unit personnel policies to the contrary,
39 pertinent work papers and other supportive material relating to issued fraud or compliance
40 investigation reports may be, at the discretion of the Director of Retirement and unless otherwise
41 prohibited by law, made available for inspection by duly authorized representatives of the State
42 and federal government who desire access to and inspection of such records in connection with
43 some matter officially before them, including criminal investigations. Except as provided in this
44 section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing
45 finding that access is necessary to a proper administration of justice, fraud and compliance
46 investigation work papers and related supportive material shall be kept confidential, including any
47 information developed as a part of the investigation.

48"

49 **SECTION 1.(e)** G.S. 128-21(7b) is recodified as G.S. 128-21(7c).

50 **SECTION 1.(f)** G.S. 128-21, as amended by Section 1(e) of this act, is amended by
51 adding a new subdivision to read:

1 "(7b) "Compliance investigation" means an independent review or examination by
2 Retirement Systems Division staff or authorized representatives who are
3 assisting the Retirement Systems Division staff of records, activities, actions, or
4 decisions by employers or other affiliated or associated entities having an
5 impact on a Retirement System or benefits administered by the Board of
6 Trustees. The purpose of a compliance investigation is to help detect errors and
7 ensure compliance and full accountability in the use of pension funds."

8 **SECTION 1.(g)** G.S. 128-21(11c) reads as rewritten:

9 "(11c) "Fraud investigation" means an independent review or examination by
10 Retirement Systems Division staff or authorized representatives who are
11 assisting the Retirement Systems Division staff of records, activities, actions, or
12 decisions by employers or other affiliated or associated entities having an
13 impact on the Retirement System. The purpose of a fraud investigation is to
14 help detect and prevent fraud and to ensure full accountability in the use of
15 pension funds."

16 **SECTION 1.(h)** G.S. 128-28 reads as rewritten:

17 "**§ 128-28. Administration and responsibility for operation of System.**

18 ...

19 (r) Fraud Investigations and Compliance Investigations. – Access to Persons and Records.
20 – In the course of conducting a fraud investigation or compliance investigation, the Retirement
21 Systems Division, or authorized representatives who are assisting the Retirement Systems
22 Division staff, shall:

- 23 (1) Have ready access to persons and may examine and copy all books, records,
24 reports, vouchers, correspondence, files, personnel files, investments, and any
25 other documentation of any employer. The review of State tax returns shall be
26 limited to matters of official business, and the Division's report shall not violate
27 the confidentiality provisions of tax laws.
- 28 (2) Have such access to persons, records, papers, reports, vouchers,
29 correspondence, books, and any other documentation that is in the possession of
30 any individual, private corporation, institution, association, board, or other
31 organization which pertain to the following:
- 32 a. Amounts received pursuant to a grant or contract from the federal
33 government, the State, or its political subdivisions.
- 34 b. Amounts received, disbursed, or otherwise handled on behalf of the
35 federal government or the State.
- 36 (3) Have the authority, and shall be provided with ready access, to examine and
37 inspect all property, equipment, and facilities in the possession of any employer
38 agency or any individual, private corporation, institution, association, board, or
39 other organization that were furnished or otherwise provided through grant,
40 contract, or any other type of funding by the employer agency.

41 With respect to the requirements of sub-subdivision (2)b. of this subsection, providers of social
42 and medical services to a beneficiary shall make copies of records they maintain for services
43 provided to a beneficiary available to the Retirement Systems Division, or to the authorized
44 representatives who are assisting the Retirement Systems Division staff. Copies of the records of
45 social and medical services provided to a beneficiary will permit verification of the health or other
46 status of a beneficiary as required for the payment of benefits under Article 3 of this Chapter. The
47 Retirement Systems Division, or authorized representatives who are assisting the Retirement
48 Systems Division staff, shall request records in writing by providing the name of each beneficiary
49 for whom records are sought, the purpose of the request, the statutory authority for the request,
50 and a reasonable period of time for the production of record copies by the provider. A provider
51 may charge, and the Retirement Systems Division, or authorized representatives who are assisting

1 the Retirement Systems Division staff, shall, in accordance with G.S. 90-411, pay a reasonable fee
2 to the provider for copies of the records provided in accordance with this subsection.

3 (s) Fraud Investigative Reports and Work Papers or Compliance Investigative Reports and
4 Work Papers. – The Director of the Retirement Systems Division shall maintain for 10 years a
5 complete file of all fraud investigative ~~reports~~reports, compliance investigative reports, and reports
6 of other examinations, investigations, surveys, and reviews issued under the Director's authority.
7 Fraud investigation work ~~papers~~papers, compliance investigation work papers, and other evidence
8 or related supportive material directly pertaining to the work of the Retirement Systems Division
9 of the Department of State Treasurer shall be retained according to an agreement between the
10 Director of Retirement and State Archives. To promote intergovernmental cooperation and avoid
11 unnecessary duplication of fraud or compliance investigative effort, and notwithstanding local unit
12 personnel policies to the contrary, pertinent work papers and other supportive material relating to
13 issued fraud investigation reports or compliance investigative reports may be, at the discretion of
14 the Director of Retirement and unless otherwise prohibited by law, made available for inspection
15 by duly authorized representatives of the State and federal government who desire access to and
16 inspection of such records in connection with some matter officially before them, including
17 criminal investigations. Except as provided in this section, or upon an order issued in Wake
18 County Superior Court upon 10 days' notice and hearing finding that access is necessary to a
19 proper administration of justice, fraud or compliance investigation work papers and related
20 supportive material shall be kept confidential, including any information developed as a part of the
21 investigation.

22"

23 **SECTION 2.(a)** G.S. 135-4(jj) reads as rewritten:

24 "(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
25 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established in
26 G.S. 128-27(a3), the retirement system shall notify the member and the member's employer that
27 the member's retirement allowance has been capped. The retirement system shall compute and
28 notify the member and the member's employer of the total additional amount the member would
29 need to contribute in order to make the member not subject to the contribution-based benefit cap.
30 This total additional amount shall be the actuarial equivalent of a single life annuity adjusted for
31 the age of the member at the time of retirement, or when appropriate, the age at the time of the
32 member's death that would have had to have been purchased to increase the member's benefit to
33 the pre-cap level. Except as otherwise provided in this subsection, the member shall have until 90
34 days after notification regarding this additional amount or until 90 days after the effective date of
35 retirement, whichever is later, to submit a lump sum payment to the annuity savings fund in order
36 for the retirement system to restore the retirement allowance to the uncapped amount. Nothing
37 contained in this subsection shall prevent an employer from paying all or part of the cost of the
38 amount necessary to restore the member's retirement allowance to the pre-cap amount.
39 Notwithstanding the requirement that the payment be made as a lump sum, the retirement system
40 may allow an employer of a member who became a member before January 1, 2015, or who has
41 not earned at least five years of membership service in the retirement system after January 1, 2015,
42 to pay the lump-sum amount required in this subsection on an installment payment plan beginning
43 ~~no less than 90 days after the retirement of the member and~~under one of the following two
44 options:

- 45 (1) Option one. – An installment payment plan ending no less~~more~~ than one year~~15~~
46 months after the retirement of the member.
- 47 (2) Option two. – An installment payment plan ending no more than 27 months
48 after the retirement of the member. Interest shall be assessed on the principal
49 amount of the contribution-based benefit cap liability owed and applied to any
50 installment payment plan term exceeding 12 months at a rate corresponding

1 with the interest rate assumption based on the most recent actuarial valuation
2 approved by the Board of Trustees.

3 Payment under ~~such an both~~ installment ~~plan plans~~ must be completed regardless of whether the
4 member continues to receive a recurring monthly retirement benefit through the end of the
5 installment period."

6 **SECTION 2.(b)** G.S. 128-26(y) reads as rewritten:

7 "(y) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
8 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established in
9 G.S. 128-27(a3), the retirement system shall notify the member and the member's employer that
10 the member's retirement allowance has been capped. The retirement system shall compute and
11 notify the member and the member's employer of the total additional amount the member would
12 need to contribute in order to make the member not subject to the contribution-based benefit cap.
13 This total additional amount shall be the actuarial equivalent of a single life annuity adjusted for
14 the age of the member at the time of retirement, or when appropriate, the age at the time of the
15 member's death that would have had to have been purchased to increase the member's benefit to
16 the pre-cap level. Except as otherwise provided in this subsection, the member shall have until 90
17 days after notification regarding this additional amount or until 90 days after the effective date of
18 retirement, whichever is later, to submit a lump sum payment to the annuity savings fund in order
19 for the retirement system to restore the retirement allowance to the uncapped amount. Nothing
20 contained in this subsection shall prevent an employer from paying all or part of the cost of the
21 amount necessary to restore the member's retirement allowance to the pre-cap amount.
22 Notwithstanding the requirement that the payment be made as a lump sum, the retirement system
23 may allow an employer of a member who became a member before January 1, 2015, or who has
24 not earned at least five years of membership service in the retirement system after January 1, 2015,
25 to pay the lump-sum amount required in this subsection on an installment payment plan ~~beginning~~
26 ~~no less than 90 days after the retirement of the member and~~ under one of the following two
27 options:

28 (1) Option one. – An installment payment plan ending no less more than one year 15
29 months after the retirement of the member.

30 (2) Option two. – An installment payment plan beginning no less than 90 days after
31 the retirement of the member and ending no more than 27 months after the
32 retirement of the member. Interest shall be assessed on the principal amount of
33 the contribution-based benefit cap liability owed and applied to any installment
34 payment plan term exceeding 12 months at a rate corresponding with the
35 interest rate assumption based on the most recent actuarial valuation approved
36 by the Board of Trustees.

37 Payment under ~~such an both~~ installment ~~plan plans~~ must be completed regardless of whether the
38 member continues to receive a recurring monthly retirement benefit through the end of the
39 installment period."

40 **SECTION 3.** G.S. 128-38.3 is amended by adding a new subsection to read:

41 "(c) For local employers who made arrangements with the Retirement System prior to
42 January 1, 2017, any beneficiary who is a retiree from an employer in the Retirement System
43 under this Article may authorize the periodic deduction from the beneficiary's retirement benefits
44 as designated lump sum to be paid to the beneficiary's former employer for the purpose of
45 providing health benefits. The authorization shall remain in effect until revoked by the beneficiary,
46 and proof of the authorization must be available on request of the Department of the State
47 Treasurer. The Department of State Treasurer is prohibited from making any arrangements to
48 deduct from a beneficiary's retirement benefits an amount to be paid to the beneficiary's former
49 employer for the purpose of providing health benefits."

50 **SECTION 4.(a)** G.S. 115C-436 is amended by adding a new subsection to read:

1 "(c) Upon receipt of a report from the North Carolina Teachers' and State Employees'
2 Retirement System, generated pursuant to G.S. 135-8(f)(2)f., containing a list of employees for
3 whom the local board of education made a contribution to the North Carolina Teachers' and State
4 Employees' Retirement System that is likely to require an additional employer contribution should
5 the employee elect to retire in the following 12 months, the school financial officer shall transmit a
6 copy of the report to the local board of education. The school financial officer shall also notify the
7 board of county commissioners of the county in which the local administrative unit is located that
8 the report was received and the number of employees listed in the report."

9 **SECTION 4.(b)** G.S. 135-8 is amended by adding a new subsection to read:

10 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System
11 generated pursuant to G.S. 135-8(f)(2)f., containing a list of employees for whom the employer
12 made a contribution to the North Carolina Teachers' and State Employees' Retirement System that
13 is likely to require an additional employer contribution should the employee elect to retire in the
14 following 12 months, the employer's chief financial officer shall transmit a copy of the report to
15 the chief executive of the employer, as well as to the governing body of the employer, including
16 any board which exercises financial oversight of the employer, if applicable."

17 **SECTION 4.(c)** G.S. 128-30 is amended by adding a new subsection to read:

18 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System
19 generated pursuant to G.S. 135-8(f)(2)f., containing a list of employees for whom the employer
20 made a contribution to the North Carolina Local Governmental Employees' Retirement System
21 that is likely to require an additional employer contribution should the employee elect to retire in
22 the following 12 months, the employer's chief financial officer shall transmit a copy of the report
23 to the governing body of the employer, if applicable."

24 **SECTION 5.(a)** G.S. 143-166.84 is amended by adding a new subsection to read:

25 "(c) For the purposes of this Article, the term "eligible service as sheriff" means
26 membership service rendered since the person became sheriff and, if the person has sick leave
27 standing to his or her credit accrued as a member of the Local Governmental Employees'
28 Retirement System and, after notification to the Retirement Systems Division by the Department
29 of Justice, elects to have all of that sick leave applied to service under this Article instead of
30 service in the Local Governmental Employees' Retirement System, one month of credit for each
31 20 days or portion thereof, but not less than one hour, and subject to all the requirements and
32 restrictions of G.S. 128-26(e)."

33 **SECTION 5.(b)** This section becomes effective July 1, 2017, and expires July 1,
34 2022.

35 **SECTION 6.** G.S. 105-259(b) is amended by adding a new subdivision to read:

36 "(39a) To furnish the Department of State Treasurer with information it requests
37 related to an investigation or audit under G.S. 135-6(q) or G.S. 128-28(r)."

38 **SECTION 7.** The Executive Administrator and the Board of Trustees of the State
39 Health Plan (Plan) shall not approve resolutions electing to cover retirees under the Plan for local
40 government entities that were authorized under S.L. 2004-124, S.L. 2006-7, S.L. 2005-276, and
41 S.L. 2006-249 to participate in the Plan but that did not opt to cover retirees before January 1,
42 2017.

43 **SECTION 8.(a)** G.S. 135-8(d) is amended by adding new subdivision to read:

44 "(1a) For fiscal years beginning subsequent to January 1, 2017, the sum of the
45 "normal contribution" and the "accrued liability contribution" shall not be less
46 than the employee contribution required under G.S. 135-8(b)(1)."

47 **SECTION 8.(b)** G.S. 128-30(d) is amended by adding a new subdivision to read:

48 "(10) For fiscal years beginning subsequent to January 1, 2017, the sum of the
49 "normal contribution" and the "accrued liability contribution" shall not be less
50 than the employee contribution required under G.S. 128-30(b)."

51

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

5 **SECTION 10.** Except where otherwise provided, this act is effective when it becomes
6 law.