

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 1056
Committee Substitute Favorable 6/1/22

Short Title: Ret. & Treasury Admin. Changes Act of 2022.-AB

(Public)

Sponsors:

Referred to:

May 26, 2022

A BILL TO BE ENTITLED

1 AN ACT PROVIDING AN EXCEPTION TO THE IRREVOCABLE ELECTION TO
2 TRANSFER ACCUMULATED CONTRIBUTIONS FROM SUPPLEMENTAL
3 RETIREMENT PLANS TO THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL EMPLOYEES'
5 RETIREMENT SYSTEM; THE TREATMENT OF INACTIVE EMPLOYERS AND
6 DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE
7 EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL
8 EMPLOYEES' RETIREMENT SYSTEM; ESTABLISHMENT OF A DEFAULT OPTION
9 FOR EMPLOYING UNITS THAT FAIL TO SELECT AN OPTION FOR THE TRANSFER
10 OF REMAINING ASSETS UPON THE DISCONTINUATION OF DEPARTMENT OF
11 STATE TREASURER-SPONSORED 403(B) PLANS; CLARIFICATION OF THE
12 OPERATIONALIZATION OF THE NON-ASSIGNABILITY OF PUBLIC SAFETY
13 EMPLOYEES' LINE OF DUTY DEATH BENEFITS; ELIGIBILITY FOR LONG-TERM
14 DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE EMPLOYEES'
15 RETIREMENT SYSTEM; SIGNATURE REQUIREMENTS FOR PROPERTY FINDER
16 AGREEMENTS; AND CLARIFICATION OF LOCAL GOVERNMENT COMMISSION
17 APPROVAL OF CERTAIN BORROWING CONTRACTS.

18 The General Assembly of North Carolina enacts:

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20
21 **PART I. CHANGES RELATED TO AN EXCEPTION TO THE IRREVOCABLE**
22 **ELECTION TO TRANSFER ACCUMULATED CONTRIBUTIONS FROM**
23 **SUPPLEMENTAL RETIREMENT PLANS TO THE TEACHERS' AND STATE**
24 **EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL**
25 **EMPLOYEES' RETIREMENT SYSTEM**

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

27 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
28 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
29 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
30 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
31 this Retirement System and receive, in addition to his basic service, early or disability retirement
32 allowance, a special retirement allowance which shall be based upon his eligible accumulated
33 account balance at the date of the transfer of the assets to this System. For the purpose of
34 determining the special retirement allowance, the Board of Trustees shall adopt straight life
35 annuity factors on the basis of mortality tables, such other tables as may be necessary and the
36 interest assumption rate recommended by the actuary based upon actual experience including an



1 assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees
2 shall modify such factors every five years, as shall be deemed necessary, based upon the five
3 year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers
4 his eligible accumulated contributions from the Supplemental Retirement Income Plan of North
5 Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement
6 allowance the same as if that special retirement allowance had been paid directly by the
7 Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees'
8 Retirement System shall be responsible to determine the taxable amount, if any, and report
9 accordingly. For transfers made on or after July 1, 2022, if, subsequent to the member's election,
10 the Board of Trustees determines that (i) the member was ineligible for the election or (ii) the
11 election was impermissible for any reason under federal or State law, then no special retirement
12 allowance shall be paid to the member pursuant to this subsection; the member shall return to the
13 Retirement System any amount already paid from the Retirement System as a special retirement
14 allowance; and the Retirement System shall return the transfer amount to the source of the
15 transfer, including any earnings adjustment that may be required under federal law or Internal
16 Revenue Service guidance. If the Retirement System is unable to return the amount to the account
17 from which it originated, the member may designate another eligible account under the transferor
18 plan or receive a lump sum distribution paid directly to the member if the member would
19 otherwise be eligible for a distribution under the transferor plan at such time."

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

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

39 "...."

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

41 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
42 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
43 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
44 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
45 this Retirement System and receive, in addition to his basic service, early or disability retirement
46 allowance, a special retirement allowance which shall be based upon his eligible accumulated
47 account balance at the date of the transfer of the assets to this System. For the purpose of
48 determining the special retirement allowance, the Board of Trustees shall adopt straight life
49 annuity factors on the basis of mortality tables, such other tables as may be necessary and the
50 interest assumption rate recommended by the actuary based upon actual experience including an
51 assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees

1 shall modify such factors every five years, as shall be deemed necessary, based upon the five
2 year experience study as required by G.S. 128-28(o). Provided, however, a member who transfers
3 his eligible accumulated contributions from the Supplemental Retirement Income Plan of North
4 Carolina shall be taxed for North Carolina State Income tax purposes on the special retirement
5 allowance the same as if that special retirement allowance had been paid directly by the
6 Supplemental Retirement Income Plan of North Carolina. The Local Governmental Employees'
7 Retirement System shall be responsible to determine the taxable amount, if any, and report
8 accordingly. For transfers made on or after July 1, 2022, if, subsequent to the member's election,
9 the Board of Trustees determines that (i) the member was ineligible for the election or (ii) the
10 election was impermissible for any reason under federal or State law, then no special retirement
11 allowance shall be paid to the member pursuant to this subsection; the member shall return to the
12 Retirement System any amount already paid from the Retirement System as a special retirement
13 allowance; and the Retirement System shall return the transfer amount to the source of the
14 transfer, including any earnings adjustment that may be required under federal law or Internal
15 Revenue Service guidance. If the Retirement System is unable to return the amount to the account
16 from which it originated, the member may designate another eligible account under the transferor
17 plan or receive a lump sum distribution paid directly to the member if the member would
18 otherwise be eligible for a distribution under the transferor plan at such time."

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

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

27 A member who became a member of the Supplemental Retirement Income Plan prior to
28 retirement and who remains a member of the Supplemental Retirement Income Plan may make
29 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax
30 contributions and the earnings thereon, from any of the following plans to the Supplemental
31 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement
32 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement
33 System (i) a plan participating in the North Carolina Public School Teachers' and Professional
34 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;
35 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,
36 political subdivision of a state, or any agency or instrumentality of a state or political subdivision
37 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section
38 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be
39 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section
40 403(a) of the Internal Revenue Code. In addition, any transfer under this subsection may be paid
41 in whole or in part with employer contributions paid directly to this Retirement System at the
42 time of transfer. For transfers made on or after July 1, 2022, if, subsequent to the member's
43 election, the Board of Trustees determines that (i) the member was ineligible for the election or
44 (ii) the election was impermissible for any reason under federal or State law, then no special
45 retirement allowance shall be paid to the member pursuant to this subsection; the member shall
46 return to the Retirement System any amount already paid from the Retirement System as a special
47 retirement allowance; and the Retirement System shall return the transfer amount to the source
48 of the transfer, including any earnings adjustment that may be required under federal law or
49 Internal Revenue Service guidance. If the Retirement System is unable to return the amount to
50 the account from which it originated, the member may designate another eligible account under

1 the transferor plan or receive a lump sum distribution paid directly to the member if the member
2 would otherwise be eligible for a distribution under the transferor plan at such time.

3"
4

5 **PART II. CHANGES RELATED TO THE TREATMENT OF INACTIVE EMPLOYERS**
6 **AND DEADLINES FOR REACTIVATION UNDER THE TEACHERS' AND STATE**
7 **EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL**
8 **EMPLOYEES' RETIREMENT SYSTEM**

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

10 **"§ 135-5.5. Inactive employers.**

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

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

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

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

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

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

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

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

42 **"§ 128-23.1. Inactive employers.**

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

- 45 (1) The employer has no employees that qualify for membership in the Retirement
46 System.
- 47 (2) The employer has made no employer contributions for at least one month.
- 48 (3) The employer makes a request in writing to the Retirement Systems Division
49 of the Department of State Treasurer to be made inactive.
- 50 (4) The Retirement Systems Division of the Department of State Treasurer has
51 reviewed the employer request to become inactive and has granted that

1 request. The Retirement Systems Division shall provide written notification
2 to the requesting employer of any decisions made under this section.

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

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

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

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

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

23 **SECTION 2.3.** This Part becomes effective December 31, 2022.
24

25 **PART III. CHANGES RELATED TO ESTABLISHMENT OF A DEFAULT OPTION**
26 **FOR EMPLOYING UNITS THAT FAIL TO SELECT AN OPTION FOR THE**
27 **TRANSFER OF REMAINING ASSETS UPON THE DISCONTINUATION OF**
28 **DEPARTMENT OF STATE TREASURER-SPONSORED 403(B) PLANS**

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

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

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

41 "(d) If the Department of State Treasurer and the Supplemental Retirement Board of
42 Trustees elect to discontinue offering the North Carolina Public School Teachers' and
43 Professional Educators' Investment Plan, participating local boards of trustees that continue
44 sponsoring their 403(b) plan shall designate another investment provider in their 403(b) plan to
45 receive any assets remaining in their 403(b) plan upon the discontinuation of the North Carolina
46 Public School Teachers' and Professional Educators' Investment Plan. In the event that a local
47 board of trustees fails to designate another investment provider, the Department of State
48 Treasurer and the Supplemental Retirement Board of Trustees may transfer the remaining assets,
49 on behalf of the local board of trustees, to an individual retirement account selected in a vendor
50 solicitation pursuant to subsection (e) of G.S. 135-96."
51

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

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

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

8
9 **PART V. CHANGES RELATED TO CLARIFICATION OF ELIGIBILITY FOR**
10 **LONG-TERM DISABILITY BENEFITS UNDER THE TEACHERS' AND STATE**
11 **EMPLOYEES' RETIREMENT SYSTEM**

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

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

17
18 **PART VI. CHANGES RELATED TO SIGNATURE REQUIREMENTS FOR**
19 **PROPERTY FINDER AGREEMENTS**

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

21 **"§ 116B-78. Agreement to locate property between property finders and owners or**
22 **apparent owners.**

23 ...

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

26 ...

27 (2a) Is signed by a licensed private investigator authorized to bind the property
28 finder, with signature notarized.

29"

30
31 **PART VII. CHANGES RELATED TO CLARIFICATION OF LOCAL GOVERNMENT**
32 **COMMISSION APPROVAL OF CERTAIN BORROWING CONTRACTS**

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

34 **"§ 159-151. Approval of application by Commission.**

35 ...

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

38 ...

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

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

1 **PART VIII. SEVERABILITY**

2 **SECTION 8.1.** If any provision of this act or its application is held invalid, the
3 invalidity does not affect other provisions or applications of this act that can be given effect
4 without the invalid provisions or application, and to this end the provisions of this act are
5 severable.

6
7 **PART IX. EFFECTIVE DATE**

8 **SECTION 9.1.** Except as otherwise provided, this act becomes effective July 1,
9 2022.