

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**SESSION LAW 2023-48
SENATE BILL 729**

AN ACT TO AMEND THE ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT
CAP LAW FOR SCHOOL SYSTEMS AS BROUGHT FORWARD BY THE WORKING
GROUP ESTABLISHED BY S.L. 2021-72 AND TO PROVIDE ADDITIONAL TOOLS
TO RESOLVE DISPUTED APPLICATIONS OF THE ANTI-PENSION SPIKING LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-8 reads as rewritten:

"§ 135-8. Method of financing.

...

(f) Collection of Contributions. –

...

(2) The collection of employers' contributions shall be made as follows:

...

f1. A public school unit is not required to pay an additional contribution calculated under G.S. 135-4(jj) for the retirement of a public school employee if, within 12 months of the assessment, the public school unit certifies, on a form approved by the Board of Trustees, to all of the following:

1. The retiree's service, during the period used to compute the retiree's average final compensation, was in a position or positions where State law or regulation mandates the specific dollar amount that must be paid from State funds to an employee in that position or positions or the retiree served a minimum of 12 years in a position for which State law or regulation mandates a specific dollar amount that must be paid from State funds to an employee in that position or positions.

2. The greatest local supplement amount paid to the retiree for a school year during the period used to calculate the employee's average final compensation did not exceed twenty percent (20%) of the salary paid to the retiree from State funds for the same school year.

f2. If a public school unit certifies to sub-sub-subdivision f1.1. of this subdivision but not to sub-sub-subdivision f1.2. of this subdivision, the additional contribution calculated under G.S. 135-4(jj) will be adjusted proportionately based on the extent to which the greatest local supplement amount paid to the retiree for a school year during the period used to calculate the retiree's average final compensation exceeded twenty percent (20%) of the salary paid to the retiree from State funds for the same school year, as follows:

1. If the greatest local supplement amount paid to the retiree for a school year during the period used to calculate the average



final compensation exceeded the salary paid from State funds for the same school year by more than twenty percent (20%), but less than fifty percent (50%), then the employer pays fifty percent (50%) of additional contribution.

2. If the greatest local supplement amount paid to the retiree for a school year during the period used to calculate the average final compensation exceeded the salary paid from State funds for the same school year by at least fifty percent (50%), then the employer pays one hundred percent (100%) of additional contribution.

...."

SECTION 1.(b) This section becomes effective July 1, 2023.

SECTION 2.(a) The Department of State Treasurer is authorized to resolve any legal actions currently pending against the State regarding the anti-pension spiking contribution-based benefit cap established in G.S. 135-5(a3), with respect to the amount and terms of payment, within the framework established by G.S. 135-8(f)(2).

Any additional contribution owed by a school board under G.S. 135-5(a3) and G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) on or after January 1, 2021, shall be calculated and paid in accordance with G.S. 135-8(f)(2).

For any additional contribution owed by a school board under G.S. 135-5(a3) and G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) during the litigation pause established by Section 3.2 of S.L. 2021-72, and extended by Section 1(a) of S.L. 2022-70, the employer contribution rate shall not be adjusted, as required by G.S. 135-8(f)(5), before the fiscal year beginning July 1, 2024.

Prior to September 1, 2023, the Retirement System shall not request an interception of State appropriations pursuant to G.S. 135-8(f)(3) for unpaid contributions attributable to retirements that occurred between July 1, 2021, and June 30, 2023.

SECTION 2.(b) This section is effective when it becomes law.

SECTION 3.(a) G.S. 135-6 is amended by adding a new subsection to read:

"(u) Notwithstanding G.S. 114-2.3 and G.S. 147-17, the Treasurer may designate legal counsel, including private counsel, to represent the interests of the administration of benefit programs under this Chapter."

SECTION 3.(b) This section becomes effective July 1, 2023.

SECTION 4. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 8th day of June, 2023.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

s/ Roy Cooper
Governor

Approved 2:06 p.m. this 19th day of June, 2023