

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 229*

Short Title: Retired Teachers Return to Work. (Public)

Sponsors: Representatives McLawhorn, Jeffus, Yongue, Tolson (Primary Sponsors); M. Alexander, Bell, Blackwood, Coates, Cotham, Dickson, Dockham, England, Faison, Fisher, E. Floyd, Glazier, Goforth, Harrison, Hughes, Hurley, Insko, Jackson, Lucas, Luebke, Mackey, Pierce, Spear, Tarleton, Underhill, Wainwright, E. Warren, R. Warren, Weiss, and Wray.

Referred to: Pensions and Retirement, if favorable, Education.

February 23, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO MODIFY THE PROVISION THAT PERMITS RETIRED TEACHERS TO
3 RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS
4 BY SHORTENING THE WAITING PERIOD BETWEEN RETIREMENT AND
5 REEMPLOYMENT, EXTENDING THE SUNSET ON THE PROVISION, AND
6 REMOVING THE PROHIBITION ON CONTRACTOR SERVICE AFTER
7 RETIREMENT FOR ALL STATE EMPLOYEES, AS RECOMMENDED BY THE
8 JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 135-1(20) reads as rewritten:

11 "(20) "Retirement" means the termination of employment and the complete
12 separation from active service with no intent or agreement, express or
13 implied, to return to service. A retirement allowance under the provisions of
14 this Chapter may only be granted upon retirement of a member. In order for
15 a member's retirement to become effective in any month, the member must
16 render no service, including part-time, ~~temporary, temporary, or substitute, or~~
17 ~~contractor service~~, at any time during the six months immediately following
18 the effective date of retirement. For purposes of this subdivision, service as a
19 member of a school board shall not be considered service.

20 On or after October 1, 2009, if the member is a retired teacher as defined
21 in G.S. 115C-325(5a), in order for the retired teacher's retirement to become
22 effective in any month, the retired teacher must render no service, including
23 part-time, temporary, or substitute, at any time during the four months
24 immediately following the effective date of retirement if the retired teacher
25 has attained (i) the age of at least 65 with five years of creditable service; or
26 (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years
27 of service."

28 **SECTION 2.** G.S. 135-3(8)c. reads as rewritten:

29 "c. Should a beneficiary who retired on an early or service retirement
30 allowance under this Chapter be reemployed by, or otherwise
31 engaged to perform services for, an employer participating in the
32 Retirement System on a part time, temporary, interim, or on a fee for
33 service basis, whether contractual or otherwise, and if such



1 beneficiary earns an amount during the 12 month period immediately
2 following the effective date of retirement or in any calendar year
3 which exceeds fifty percent (50%) of the reported compensation,
4 excluding terminal payments, during the 12 months of service
5 preceding the effective date of retirement, or twenty thousand dollars
6 (\$20,000), whichever is greater, as hereinafter indexed, then the
7 retirement allowance shall be suspended as of the first day of the
8 month following the month in which the reemployment earnings
9 exceed the amount above, for the balance of the calendar year, except
10 when the reemployment earnings exceed the amount above in the
11 month of December, in which case the retirement allowance shall not
12 be suspended. The retirement allowance of the beneficiary shall be
13 reinstated as of January 1 of each year following suspension. The
14 amount that may be earned before suspension shall be increased on
15 January 1 of each year by the ratio of the Consumer Price Index to
16 the Index one year earlier, calculated to the nearest tenth of a percent
17 (1/10 of 1%).

18 The computation of postretirement earnings of a beneficiary
19 under this sub-subdivision, who retired on or before October 1, 2007,
20 and who has been retired at least six months and has not been
21 employed in any capacity with a public school for at least six months
22 immediately preceding the effective date of reemployment, shall not
23 include earnings while the beneficiary is employed to teach in a
24 permanent full-time or part-time capacity that exceeds fifty percent
25 (50%) of the applicable workweek in a public school. The
26 Department of Public Instruction shall certify to the Retirement
27 System that a beneficiary is employed to teach by a local school
28 administrative unit under the provisions of this sub-subdivision and
29 as a retired teacher as the term is defined under the provisions of
30 G.S. 115C-325(a)(5a).

31 The computation of postretirement earnings of a beneficiary
32 under this sub-subdivision, who retired after October 1, ~~2007, 2007,~~
33 but on or before September 30, 2009, after attaining (i) the age of at
34 least 65 with five years of creditable service; or (ii) the age of at least
35 60 with 25 years of creditable service; or (iii) 30 years of service; and
36 who has been retired at least six months and has not been employed
37 in any capacity with a public school for at least six months
38 immediately preceding the effective date of reemployment, shall not
39 include earnings while the beneficiary is employed to teach in a
40 permanent full-time or part-time capacity that exceeds fifty percent
41 (50%) of the applicable workweek in a public school. The
42 Department of Public Instruction shall certify to the Retirement
43 System that a beneficiary is employed to teach by a local school
44 administrative unit under the provisions of this sub-subdivision and
45 as a retired teacher as the term is defined under the provisions of
46 G.S. 115C-325(a)(5a).

47 The computation of postretirement earnings of a beneficiary
48 under this sub-subdivision, who retired on or after October 1, 2009,
49 after attaining (i) the age of at least 65 with five years of creditable
50 service; or (ii) the age of at least 60 with 25 years of creditable
51 service; or (iii) 30 years of service; and who has been retired at least

1 four months and has not been employed in any capacity with a public
2 school for at least four months immediately preceding the effective
3 date of reemployment, shall not include earnings while the
4 beneficiary is employed to teach in a permanent full-time or
5 part-time capacity that exceeds fifty percent (50%) of the applicable
6 workweek in a public school. The Department of Public Instruction
7 shall certify to the Retirement System that a beneficiary is employed
8 to teach by a local school administrative unit under the provisions of
9 this sub-subdivision and as a retired teacher as the term is defined
10 under the provisions of G.S. 115C-325(a)(5a).

11 Beneficiaries employed under this sub-subdivision are not
12 entitled to any benefits otherwise provided under this Chapter as a
13 result of this period of employment."

14 **SECTION 3.** G.S. 115C-325(5a) reads as rewritten:

15 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees'
16 Retirement System of North Carolina who retired on or before October 1,
17 2007, and who has been retired at least six months, has not been employed in
18 any capacity for at least six months, immediately preceding the effective
19 date of reemployment, is determined by a local board of education or a
20 charter school to have had satisfactory performance during the last year of
21 employment by a local board of education or a charter school, and who is
22 employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a
23 school other than a charter school shall be treated the same as a probationary
24 teacher except that (i) a retired teacher is not eligible for career status and (ii)
25 the performance of a retired teacher who had attained career status prior to
26 retirement shall be evaluated in accordance with a local board of education's
27 policies and procedures applicable to career teachers.

28 "Retired teacher" also means a beneficiary of the Teachers' and State
29 Employees' Retirement System of North Carolina who retired after October
30 1, ~~2007~~, 2007, but on or before September 30, 2009, after attaining (i) the age
31 of at least 65 with five years of creditable service; or (ii) the age of at least
32 60 with 25 years of creditable service; or (iii) 30 years of service; who has
33 been retired at least six months, has not been employed in any capacity for at
34 least six months immediately preceding the effective date of reemployment,
35 is determined by a local board of education or a charter school to have had
36 satisfactory performance during the last year of employment by a local board
37 of education or a charter school, and who is employed to teach as provided
38 in G.S. 135-3(8)c. A retired teacher at a school other than a charter school
39 shall be treated the same as a probationary teacher except that (i) a retired
40 teacher is not eligible for career status and (ii) the performance of a retired
41 teacher who had attained career status prior to retirement shall be evaluated
42 in accordance with a local board of education's policies and procedures
43 applicable to career teachers.

44 "Retired teacher" also means a beneficiary of the Teachers' and State
45 Employees' Retirement System of North Carolina who retired on or after
46 October 1, 2009, after attaining (i) the age of at least 65 with five years of
47 creditable service; or (ii) the age of at least 60 with 25 years of creditable
48 service; or (iii) 30 years of service; who has been retired at least four
49 months, has not been employed in any capacity for at least four months
50 immediately preceding the effective date of reemployment, is determined by
51 a local board of education or a charter school to have had satisfactory

1 performance during the last year of employment by a local board of
2 education or a charter school, and who is employed to teach as provided in
3 G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall
4 be treated the same as a probationary teacher except that (i) a retired teacher
5 is not eligible for career status and (ii) the performance of a retired teacher
6 who had attained career status prior to retirement shall be evaluated in
7 accordance with a local board of education's policies and procedures
8 applicable to career teachers."

9 **SECTION 4.** Notwithstanding any other provision of law, effective July 1, 2009,
10 each local school administrative unit shall pay to the Teachers' and State Employees'
11 Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths
12 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt
13 from the earnings cap, are being paid. Each local school administrative unit shall report
14 monthly to the Retirement Systems Division on payments made pursuant to this section.

15 Notwithstanding any other provision of law, effective July 1, 2009, any portion of
16 the payment made by a local school administrative unit to a reemployed teacher who is exempt
17 from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate,
18 that exceeds the State-supported salary level for that position shall be paid from local funds.

19 **SECTION 5.** If the Internal Revenue Service determines that the provisions of
20 G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers
21 jeopardize the status of the Teachers' and State Employees' Retirement System of North
22 Carolina under the Internal Revenue Code, then the third and fourth paragraphs of
23 G.S. 135-3(8)c. are repealed.

24 **SECTION 6.** This act becomes effective October 1, 2009, and expires October 1,
25 2011.