

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

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HOUSE BILL 1056  
Committee Substitute Favorable 6/6/18  
Senate Pensions and Retirement and Aging Committee Substitute Adopted 6/13/18

Short Title: FAIR 2018.-AB

(Public)

Sponsors:

Referred to:

June 1, 2018

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROMOTE FINANCIAL ACCOUNTABILITY, INTEGRITY, AND  
3 RECOVERY OF ASSETS OF THE TEACHERS' AND STATE EMPLOYEES'  
4 RETIREMENT SYSTEM, THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT  
5 SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE  
6 LEGISLATIVE RETIREMENT SYSTEM, THE FIREFIGHTERS AND RESCUE SQUAD  
7 WORKERS' PENSION FUND, THE DISABILITY INCOME PLAN, AND THE STATE  
8 HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

9 Whereas, the employee benefit programs operated by the Department of State  
10 Treasurer are an intergenerational partnership between public employees and taxpayers of the  
11 State, it is incumbent upon the administrators of those programs to provide for Financial  
12 Accountability, Integrity, and Recovery of assets (FAIRness); and

13 Whereas, taxpayers should expect FAIRness in these employee benefit programs, and  
14 the Department of State Treasurer should be provided all tools necessary to promote that goal;  
15 and

16 Whereas, public employees who are participants in these employee benefit programs  
17 by virtue of deductions from compensation should also expect FAIRness as a baseline in the  
18 operation of these programs; and

19 Whereas, future generations of North Carolinians benefit from fiscally responsible  
20 management provided by FAIRness of these employee benefit programs by the current  
21 generation; Now, therefore,  
22 The General Assembly of North Carolina enacts:

23 **SECTION 1.** This act shall be known and cited as the "Financial Accountability,  
24 Integrity, and Recovery Act of 2018".

25 **SECTION 2.(a)** Article 3B of Chapter 135 of the General Statutes is amended by  
26 adding a new section to read:

27 "**§ 135-48.37A Employing unit cooperation in collection of amounts owed to Plan.**

28 (a) Any payment of benefits or other amount to, or premiums or claims paid on behalf  
29 of, any Plan member that is later determined to be an overpayment, an erroneous payment, or a  
30 benefit or amount for which the Plan member was ineligible shall be repaid by the Plan member  
31 to the Plan. If the Plan member is an employee of an employing unit, then any amounts to be  
32 recouped under this subsection shall be offset against the net wages of the Plan member.

33 (b) If a Plan member owes an amount to the Plan under this section, has been notified of  
34 this amount owed by the Plan member in writing, and has not entered into a payment plan  
35 acceptable to the Plan within 30 days after the written notice, then the Plan shall notify the Plan



1 member's employer of the amount owed. Upon receipt of this notice from the Plan, an employing  
2 unit shall offset the amount owed against not less than ten percent (10%) of the net wages of the  
3 Plan member until the Plan notifies the employing unit that the amount owed has been paid in  
4 full. The Plan's notice to the employing unit shall be prima facie evidence that the amount owed  
5 is valid and, notwithstanding any other provision of law to the contrary, the employing unit has  
6 no obligation to verify the amount owed. The employing unit shall provide no more than 30 days'  
7 but not less than 14 days' written notice to the Plan member prior to beginning the offset. The  
8 employing unit shall remit all amounts offset under this subsection to the Plan in intervals  
9 corresponding with the employing unit's regular pay periods.

10 (c) If an employing unit fails to adhere to the provisions of this section, the Plan shall,  
11 after notice to the employing unit of its failure to cooperate, be entitled to seek recovery of any  
12 amounts due directly from the employing unit.

13 (d) No amount due under this section may be forgiven by the Board, the Plan, the  
14 Executive Administrator, the State Treasurer, or an employing unit. The Plan and the employing  
15 unit shall have a duty to pursue the repayment in full of these funds by all lawful means available,  
16 including the filing of a civil action in the General Court of Justice.

17 (e) Nothing in this section shall be construed to limit the Plan's ability to pursue  
18 alternative judicial remedies against a Plan member or a former Plan member, including the  
19 pursuit of a judgment and lien against real property."

20 **SECTION 2.(b)** G.S. 135-9 reads as rewritten:

21 "**§ 135-9. Exemption from garnishment, attachment, etc.-etc.; employing unit to offset**  
22 **amount owed by member or beneficiary.**

23 (a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et  
24 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of  
25 a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the  
26 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or  
27 accruing to any person under the provisions of this Chapter, and the moneys in the various funds  
28 created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other  
29 process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise  
30 provided. Application for System approval of a domestic relations order dividing a person's  
31 interest under the Retirement System shall be accompanied by an order consistent with the  
32 system-designed template order provided on the System's Web site. For orders entered on or after  
33 January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations  
34 order shall be limited to the lifetime of that former spouse and, upon the death of that former  
35 spouse, the former spouse's share shall revert to the member.

36 (b) Notwithstanding any provisions to the contrary, any overpayment of benefits or  
37 erroneous payments to a member in a State-administered retirement system or the former  
38 Disability Salary Continuation Plan or the Disability Income Plan of North Carolina, including  
39 any benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member or  
40 beneficiary who is later determined to have been ineligible for those benefits or unentitled to  
41 those amounts, may be offset against any retirement allowance, return of contributions or any  
42 other right accruing under this Chapter to the same person, the person's estate, or designated  
43 beneficiary.

44 (c) Notwithstanding any provisions to the contrary, if a member or beneficiary is  
45 employed by the State or any political subdivision of the State, then any overpayment of benefits  
46 or erroneous payments to, or on behalf of, the member or beneficiary shall be offset against the  
47 net wages of the member or beneficiary. If a member or beneficiary owes an amount to the  
48 Retirement System, has been notified of this amount in writing, and has not entered into a  
49 payment plan acceptable to the Retirement System, then the Retirement System shall notify the  
50 member or beneficiary's employer of the amount owed. Upon receipt of this notice from the  
51 Retirement System, the employer shall offset the amount owed against not less than ten percent

1 (10%) of the net wages of the member or beneficiary until the Retirement System notifies the  
2 employer that the amount has been paid in full. The Retirement System's notice shall be prima  
3 facie evidence that the debt is valid and, notwithstanding any other provision of law to the  
4 contrary, the employer has no obligation to verify the amount owed. The employer shall provide  
5 no more than 30 days' but not less than 14 days' written notice to the member or beneficiary prior  
6 to beginning the offset. The employer shall remit all amounts offset under this subsection to the  
7 Retirement System in intervals corresponding with its regular pay periods. If an employer fails  
8 to adhere to the provisions of this section, then the Retirement System shall, after notice to the  
9 employer of its failure to cooperate, be entitled to seek recovery of any amounts due directly  
10 from the employer.

11 (d) Nothing in this section shall be construed to limit the Retirement System's ability to  
12 pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a  
13 judgment and lien against real property."

14 **SECTION 2.(c)** G.S. 128-31 reads as rewritten:

15 **"§ 128-31. Exemptions from ~~execution~~; employing unit to offset amount owed by**  
16 **member or beneficiary.**

17 (a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et  
18 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of  
19 a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the  
20 pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or  
21 accruing to any person under the provisions of this Article, and the moneys in the various funds  
22 created by this Article, are exempt from levy and sale, garnishment, attachment, or any other  
23 process whatsoever, and shall be unassignable except as in this Article specifically otherwise  
24 provided. Application for System approval of a domestic relations order dividing a person's  
25 interest under the Retirement System shall be accompanied by an order consistent with the  
26 system-designed template order provided on the System's Web site. For orders entered on or after  
27 January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations  
28 order shall be limited to the lifetime of that former spouse and, upon the death of that former  
29 spouse, the former spouse's share shall revert to the member.

30 (b) Notwithstanding any provisions to the contrary, any overpayment of benefits or  
31 erroneous payments to a member in a State-administered retirement system, the Disability Salary  
32 Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid  
33 to, or State Health Plan premiums or claims paid on behalf of, any member who is later  
34 determined to have been ineligible for those benefits or unentitled to those amounts, may be  
35 offset against any retirement allowance, return of contributions or any other right accruing under  
36 this Chapter to the same person, the person's estate, or designated beneficiary.

37 (c) Notwithstanding any provisions to the contrary, if the member or beneficiary is an  
38 employee of an employing unit of the State or any political subdivision of the State, then any  
39 overpayment of benefits or erroneous payments to, or on behalf of, the member or beneficiary  
40 shall be offset against the net wages of the employee. If a member or beneficiary owes an amount  
41 to the Retirement System, has been notified of this amount in writing, and has not entered into a  
42 payment plan acceptable to the Retirement System, then the Retirement System shall notify the  
43 member or beneficiary's employer of the amount owed. Upon receipt of this notice from the  
44 Retirement System, the employer shall offset the amount owed against not less than ten percent  
45 (10%) of the net wages of the member or beneficiary until the Retirement System notifies the  
46 employer that the amount owed has been paid in full. The Retirement System's notice shall be  
47 prima facie evidence that the amount owed is valid and, notwithstanding any other provision of  
48 law to the contrary, the employer has no obligation to verify the amount owed. The employer  
49 shall provide no more than 30 days' but not less than 14 days' written notice to the member or  
50 beneficiary prior to beginning the offset. The employer shall remit all amounts offset under this  
51 subsection to the Retirement System in intervals corresponding with its regular pay periods. If

1 an employer fails to adhere to the provisions of this section, then the Retirement System shall,  
2 after notice to the employer of its failure to cooperate, be entitled to seek recovery of any amounts  
3 due directly from the employer.

4 (d) Nothing in this section shall be construed to limit the Retirement System's ability to  
5 pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a  
6 judgment and lien against real property."

7 **SECTION 2.(d)** This section is effective when it becomes law. Subsection (a) of this  
8 section applies to all amounts owed by a Plan member for which notice is sent on and after that  
9 date, regardless of the date the benefit, claim, or premium amount which the Plan member was  
10 ineligible, the overpayment, or the erroneous payment was made. Subsections (b) and (c) of this  
11 section apply to all amounts owed by a member or beneficiary to the applicable retirement system  
12 for which notice is sent on and after that date, regardless of the date the overpayment of benefits  
13 or the erroneous payment was made.

14 **SECTION 3.** G.S. 135-48.37 reads as rewritten:

15 **"§ 135-48.37. Liability of third person; right of subrogation; right of first recovery.**

16 (a) The Plan shall have the right of subrogation upon all of the Plan member's right to  
17 recover from a liable third party for payment made under the Plan, for all medical expenses,  
18 including provider, hospital, surgical, or prescription drug expenses, to the extent those payments  
19 are related to an injury caused by a liable third party. The Plan member shall do nothing to  
20 prejudice these rights. The Plan has the right to first recovery on any amounts so recovered,  
21 whether by the Plan or the Plan member, and whether recovered by litigation, arbitration,  
22 mediation, settlement, or otherwise. Notwithstanding any other provision of law to the contrary,  
23 the recovery limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation  
24 of Plan members.

25 (b) If the Plan is precluded from exercising its right of subrogation, it may exercise its  
26 rights of recovery against any third party who was overpaid. If the Plan recovers damages from  
27 a liable third party in excess of the claims paid, any excess will be paid to the member, less a  
28 proportionate share of the costs of collection.

29 (c) In the event a Plan member recovers any amounts from a liable third party to which  
30 the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan  
31 member. If, prior to the Plan exercising its rights under this section, a Plan member utilizes or  
32 otherwise disposes of any amounts that were recovered from a liable third party to which the Plan  
33 is entitled under this section, then the Plan may pursue alternative judicial remedies against the  
34 Plan member to recover the amount to which the Plan is entitled, including the pursuit of a  
35 judgment and lien against real property.

36 (c1) The Plan has a lien, for not more than the value of claims paid related to the liability  
37 of the third party, on any damages subsequently recovered by a Plan member against the any  
38 liable third party. If the Plan member fails to pursue the remedy against a liable third party, the  
39 Plan is subrogated to the rights of the Plan member and is entitled to enforce liability in the Plan's  
40 own name or in the name of the Plan member for the amount paid by the Plan.

41 (d) In no event shall the Plan's lien exceed fifty percent (50%) of the total damages  
42 recovered by the Plan member, exclusive of the Plan member's reasonable costs of collection as  
43 determined by the Plan in the Plan's sole discretion. The decision by the Plan as to the reasonable  
44 cost of collection is conclusive and is not a "final agency decision" for purposes of a contested  
45 case under Chapter 150B of the General Statutes. Notice of the Plan's lien or right to recovery  
46 shall be presumed when a Plan member is represented by an attorney, and the attorney shall  
47 disburse proceeds pursuant to this section."

48 **SECTION 4.** G.S. 1-359 reads as rewritten:

49 **"§ 1-359. Debtors of judgment debtor may satisfy execution.**

50 (a) After the issuing of an execution against property, all persons indebted to the  
51 judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff

1 the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the  
2 sheriff's receipt is a sufficient discharge for the amount paid.

3 (b) When the Division of Employment Security of the Department of Commerce  
4 (~~Division~~) prevails in a civil action against an employer to collect unpaid employment taxes under  
5 G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts or other  
6 third-party payments in payment of the unpaid taxes in the manner provided by subsection (a) of  
7 this section. Direct receipt by the Division is a sufficient discharge for the amount paid by a credit  
8 card company, clearinghouse, or third-party payment processor.

9 (c) When the State Health Plan for Teachers and State Employees prevails in a civil  
10 action against a provider to collect an overpayment, the State Health Plan may attach or garnish  
11 the provider's credit card receipts or other third-party payments in payment of the amount owed  
12 in the manner provided by subsection (a) of this section. Direct receipt by the State Health Plan  
13 is a sufficient discharge for the amount paid by a credit card company, clearinghouse, or  
14 third-party payment processor.

15 (d) In addition to the intercept authority under G.S. 135-8(f) and G.S. 128-30(g), when  
16 the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income  
17 Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System  
18 prevails in a civil action against a participating employer, as defined under G.S. 35-1 or  
19 G.S. 128-21, to collect monies owed, the Teachers' and State Employees' Retirement System of  
20 North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local  
21 Government Employees' Retirement System may attach or garnish the employer's credit card  
22 receipts or other third-party payments in payment of the amount owed in the manner provided  
23 by subsection (a) of this section. Direct receipt by the Teachers' and State Employees' Retirement  
24 System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina  
25 Local Government Employees' Retirement System is a sufficient discharge for the amount paid  
26 by a credit card company, clearinghouse, or third-party payment processor."

27 **SECTION 5.(a)** G.S. 135-48.37 is amended by adding a new subsection to read:

28 "(e) The priority of any lien held by the State Health Plan for Teachers and State  
29 Employees shall be superior to all nongovernmental liens and rights, whether such liens and  
30 rights are prior or subsequent to the lien."

31 **SECTION 5.(b)** G.S. 44-49(a) reads as rewritten:

32 "**§ 44-49. Lien created; applicable to persons non sui juris.**

33 (a) From and after March 26, 1935, there is hereby created a lien upon any sums  
34 recovered as damages for personal injury in any civil action in this State. This lien is in favor of  
35 any person, corporation, State entity, municipal corporation or county to whom the person so  
36 recovering, or the person in whose behalf the recovery has been made, may be indebted for any  
37 drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse,  
38 or hospital, or hospital attention or services rendered in connection with the injury in  
39 compensation for which the damages have been recovered. Where damages are recovered for  
40 and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered  
41 as fully as if the person were sui juris. The priority of a lien held by the State Health Plan for  
42 Teachers and State Employees shall be superior to all nongovernmental liens and rights, whether  
43 such liens and rights are prior or subsequent to the lien."

44 **SECTION 5.(c)** G.S. 44-50 reads as rewritten:

45 "**§ 44-50. Receiving person charged with duty of retaining funds for purpose stated;**  
46 **evidence; attorney's fees; charges.**

47 A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in  
48 compensation for or settlement of the injuries, whether in litigation or otherwise. If an attorney  
49 represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their  
50 disbursement, any person that receives those funds shall retain out of any recovery or any  
51 compensation so received a sufficient amount to pay the just and bona fide claims for any drugs,

1 medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or  
2 hospital, or hospital attention or services, after having received notice of those claims. Evidence  
3 as to the amount of the charges shall be competent in the trial of the action. Subject to  
4 G.S. 135-48.37, the priority of a lien held by the State Health Plan for Teachers and State  
5 Employees shall be superior to all nongovernmental liens and rights, whether such liens and  
6 rights are prior or subsequent to the lien. Nothing in this section or in G.S. 44-49 shall be  
7 construed so as to interfere with any amount due for attorney's services. The lien provided for  
8 shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages  
9 recovered. Except as provided in G.S. 44-51, a client's instructions for the disbursement of  
10 settlement or judgment proceeds are not binding on the disbursing attorney to the extent that the  
11 instructions conflict with the requirements of this Article."

12 **SECTION 5.(d)** G.S. 44-51 reads as rewritten:

13 **"§ 44-51. Disputed claims to be settled before payments.**

14 (a) Whenever the sum or amount or amounts demanded for medical services or hospital  
15 fees shall be in dispute, nothing in this Article shall have any effect of compelling payment  
16 thereof until the claim is fully established and determined, in the manner provided by law:  
17 Provided, however, that when any such sums are in dispute the amount of the lien shall in no  
18 case exceed the amount of the bills in dispute.

19 (b) This section shall not apply to amounts owed to the State Health Plan for Teachers  
20 and State Employees for past-due account receivables related to claims payments."

21 **SECTION 5.(e)** This section is effective when it becomes law. Priority of the State  
22 Health Plan for Teachers and State Employees' lien over nongovernmental liens and rights  
23 created under this section shall apply only to nongovernmental liens and rights that have attached  
24 to the applicable property on or after the effective date of this act.

25 **SECTION 6.(a)** Article 1 of Chapter 135 of the General Statutes is amended by  
26 adding a new section to read:

27 **"§ 135-18.10B. Prohibition on purchase of forfeited service.**

28 Any member whose retirement benefits have been forfeited under G.S. 135-18.10 or  
29 G.S. 135-18.10A is prohibited from subsequently purchasing or repurchasing either those  
30 forfeited benefits or any creditable membership service associated with those forfeited benefits."

31 **SECTION 6.(b)** Article 3 of Chapter 128 of the General Statutes is amended by  
32 adding a new section to read:

33 **"§ 128-38.4B. Prohibition on purchase of forfeited service.**

34 Any member whose retirement benefits have been forfeited under G.S. 128-38.4 or  
35 G.S. 128-38.4A is prohibited from subsequently purchasing or repurchasing either those forfeited  
36 benefits or any creditable membership service associated with those forfeited benefits."

37 **SECTION 6.(c)** Article 4 of Chapter 135 of the General Statutes is amended by  
38 adding a new section to read:

39 **"§ 135-75.1B. Prohibition on purchase of forfeited service.**

40 Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or  
41 G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited  
42 benefits or any creditable membership service associated with those forfeited benefits."

43 **SECTION 6.(d)** Article 1A of Chapter 120 of the General Statutes is amended by  
44 adding a new section to read:

45 **"§ 120-4.33B. Prohibition on purchase of forfeited service.**

46 Any member whose retirement benefits have been forfeited under G.S. 120-4.3 or  
47 G.S. 120-4.3A is prohibited from subsequently purchasing or repurchasing either those forfeited  
48 benefits or any creditable membership service associated with those forfeited benefits."

49 **SECTION 6.(e)** Article 86 of Chapter 58 of the General Statutes is amended by  
50 adding a new section to read:

51 **"§ 58-86-101. Prohibition on purchase of forfeited service.**

1 Any member whose retirement benefits have been forfeited under G.S. 58-86-100 is  
2 prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any  
3 creditable membership service associated with those forfeited benefits."

4 **SECTION 7.** G.S. 135-4.1 reads as rewritten:

5 "**§ 135-4.1. Reciprocity of creditable service with other State-administered retirement**  
6 **systems.**

7 (a) Members First Hired Prior to January 1, 2021. – Only for the purpose of determining  
8 eligibility for benefits accruing under this Article, Article for members first hired prior to January  
9 1, 2021, creditable service standing to the credit of a member of the Legislative Retirement  
10 System, Consolidated Judicial Retirement System, or the Local Governmental Employees'  
11 Retirement System or service standing to the credit of a member of the Optional Retirement  
12 Program shall be added to the creditable service standing to the credit of a member of this System;  
13 provided, that in the event a person is a retired member of any of the foregoing retirement systems  
14 or the Optional Retirement Program, such creditable service standing or service standing to the  
15 credit of the retired member prior to retirement shall be likewise counted. In no instance shall  
16 service credits maintained in the aforementioned retirement systems or the Optional Retirement  
17 Program be added to the creditable service in this System for application of this System's benefit  
18 accrual rate in computing a service retirement benefit unless specifically authorized by this  
19 Article.

20 (a1) Members First Hired on or After January 1, 2021. – Only for the purpose of  
21 determining eligibility for benefits accruing under this Article for members first hired on or after  
22 January 1, 2021, creditable service standing to the credit of a member of the Legislative  
23 Retirement System, Consolidated Judicial Retirement System, or the Local Governmental  
24 Employees' Retirement System shall be added to the creditable service standing to the credit of  
25 a member of this System, provided that in the event a person is a retired member of any of the  
26 foregoing retirement systems such creditable service standing or service standing to the credit of  
27 the retired member prior to retirement shall be likewise counted. In no instance shall service  
28 credits maintained in the aforementioned retirement systems be added to the creditable service  
29 in this System for application of this System's benefit accrual rate in computing a service  
30 retirement benefit unless specifically authorized by this Article.

31 (b) A person who was a former member of this System and who has forfeited his  
32 creditable service in this System by receiving a return of contributions and who has creditable  
33 service in the Legislative Retirement System, Consolidated Judicial Retirement System, or the  
34 Local Governmental Employees' Retirement System may count such creditable service for the  
35 purpose of restoring the creditable service forfeited in this System under the terms and conditions  
36 as set forth in this Article and reestablish membership in this System.

37 (c) Creditable service under this section shall not be counted twice for the same period  
38 of time whether earned as a member, purchased, or granted as prior service credits."

39 **SECTION 8.(a)** Article 3B of Chapter 135 of the General Statutes is amended by  
40 adding a new section to read:

41 "**§ 135-48.46. Settlement agreements by employing units.**

42 (a) No employing unit may enter into any settlement agreement with an employee or  
43 former employee regarding health benefits covered under the Plan unless the employing unit has  
44 received written authorization from the Plan's Executive Administrator.

45 (b) No settlement agreement between an employing unit and an employee or former  
46 employee may reinstate health benefit coverage under the Plan more than one year prior to the  
47 date of the settlement agreement.

48 (c) Any settlement agreement provision in violation of this section shall be void ab  
49 initio."

1           **SECTION 8.(b)** This section is effective when it becomes law and applies to any  
2 settlement agreements entered into on or after that, including any settlement agreements which  
3 may be under negotiation on or before that date.

4           **SECTION 9.(a)** G.S. 135-8(f)(2)f. reads as rewritten:

5           "f. Each employer shall transmit to the Retirement System on account of  
6 each member who retires on or after January 1, 2015, having earned  
7 his or her last month of membership service as an employee of that  
8 employer the lump sum payment, as calculated under G.S. 135-4(jj)  
9 for inclusion in the Pension Accumulation Fund, that would have been  
10 necessary in order for the retirement system to restore the member's  
11 retirement allowance to the pre-cap amount. Employers are not  
12 required to make contributions on account of any retiree who became  
13 a member on or after January 1, 2015, and who earned at least five  
14 years of membership service in the Retirement System after January  
15 1, 2015. The retirement allowance of a member with a final average  
16 compensation of more than one hundred thousand dollars (\$100,000),  
17 as hereinafter indexed, shall not be subject to the contribution-based  
18 benefit cap if the compensation was earned from multiple  
19 simultaneous employers, unless an employer's share of the average  
20 final compensation exceeds one hundred thousand dollars (\$100,000).  
21 An employer is not required to make contributions on account of any  
22 retiree whose final average compensation exceeds one hundred  
23 thousand dollars (\$100,000), as hereinafter indexed, based upon  
24 compensation earned from multiple simultaneous employers, unless  
25 that employer's share of the average final compensation exceeds one  
26 hundred thousand dollars (\$100,000), as provided and indexed under  
27 G.S. 135-5(a3).

28           Under such rules as the Board of Trustees shall adopt, the  
29 Retirement System shall report monthly to each employer a list of  
30 those members for whom the employer made a contribution to the  
31 Retirement System in the preceding month that are most likely to  
32 require an additional employer contribution should they elect to retire  
33 in the following 12 months, if applicable."

34           **SECTION 9.(b)** G.S. 128-30(g)(2)b. reads as rewritten:

35           "b. Each employer shall transmit to the Retirement System on account of  
36 each member who retires on or after January 1, 2015, having earned  
37 his or her last month of membership service as an employee of that  
38 employer the lump sum payment, as calculated under G.S. 128-26(y)  
39 for inclusion in the Pension Accumulation Fund, that would have been  
40 necessary in order for the retirement system to restore the member's  
41 retirement allowance to the pre-cap amount. Employers are not  
42 required to make contributions on account of any retiree who became  
43 a member on or after January 1, 2015, and who earned at least five  
44 years of membership service in the Retirement System after January  
45 1, 2015. The retirement allowance of a member with a final average  
46 compensation of more than one hundred thousand dollars (\$100,000),  
47 as hereinafter indexed, shall not be subject to the contribution-based  
48 benefit cap if the compensation was earned from multiple  
49 simultaneous employers, unless an employer's share of the average  
50 final compensation exceeds one hundred thousand dollars (\$100,000).  
51 An employer is not required to make contributions on account of any



1            retiree whose final average compensation exceeds one hundred  
 2            thousand dollars (\$100,000), as hereinafter indexed, based upon  
 3            compensation earned from multiple simultaneous employers, unless  
 4            that employer's share of the average final compensation exceeds one  
 5            hundred thousand dollars (\$100,000), as provided and indexed under  
 6            G.S. 128-27(a3).

7            Under such rules as the Board of Trustees shall adopt, the  
 8            Retirement System shall report monthly to each employer a list of  
 9            those members for whom the employer made a contribution to the  
 10           Retirement System in the preceding month that are most likely to  
 11           require an additional employer contribution should they elect to retire  
 12           in the following 12 months, if applicable."

13           **SECTION 10.(a)** G.S. 135-105 reads as rewritten:

14           **"§ 135-105. Short-term disability benefits.**

15           (a) Any participant who becomes disabled and is no longer able to perform his or her  
 16           usual occupation ~~may, after at least 365 calendar days succeeding his date of initial employment~~  
 17           ~~as a teacher or employee and at least one year of contributing membership service, may receive a~~  
 18           benefit commencing on the first day succeeding the waiting ~~period;~~period provided that the all of  
 19           the following conditions are met:

- 20           (1) Application for the benefit occurs at least 365 calendar days succeeding the  
 21           participant's date of initial employment as a teacher or employee.  
 22           (2) The participant has at least one year of contributing membership service  
 23           earned within 36 calendar months immediately preceding the date of  
 24           disability. Salary continuation used during the period as provided in  
 25           G.S. 135-104 shall count toward this one-year requirement.  
 26           (3) Application for the benefit occurs no later than 365 days following the first  
 27           day of the waiting period.  
 28           (4) The participant's employer and attending physician shall certify that such the  
 29           participant is mentally or physically incapacitated for the further performance  
 30           of duty, that such duty.  
 31           (5) The participant's incapacity was incurred at the time of active employment  
 32           and has been continuous thereafter; provided further that the requirement for  
 33           one year of contributing membership service must have been earned within  
 34           36 calendar months immediately preceding the date of disability and further,  
 35           salary continuation used during the period as provided in G.S. 135-104 shall  
 36           count toward the aforementioned one year requirement thereafter.

37           As to the requirement that a participant applying for short term disability benefits have at  
 38           least one year of contributing membership service within the 36 calendar months immediately  
 39           preceding the date of disability, a participant who would have qualified for a benefit under this  
 40           section but for service in the uniformed services shall not be denied a benefit under this section  
 41           because of that interruption for military service provided all other requirements of this section  
 42           are met.

43           Notwithstanding the requirement that the incapacity was incurred at the time of active  
 44           employment, any participant who becomes disabled while on an employer approved leave of  
 45           absence and who is eligible for and in receipt of temporary total benefits under The North  
 46           Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be  
 47           eligible for all benefits provided under this Article.

48           ...  
 49           (d) ~~The~~For short-term disability benefits that begin before July 1, 2019, the provisions of  
 50           this section shall be administered by the employer and further, the benefits during the first six  
 51           months of the short-term disability period shall be the full responsibility of and paid by the

1 employer; Provided, further, that upon the completion of the initial six months of the short-term  
2 disability period, the employer will continue to be responsible for the short-term benefits to the  
3 participant, however, such employer shall notify the Plan, at the conclusion of the short-term  
4 disability period or upon termination of short-term disability benefits, if earlier, of the amount of  
5 short-term benefits and State Health Insurance premiums paid by the employer and the Plan shall  
6 reimburse the employer the amounts so paid.

7 (d1) For short-term disability benefits that begin on and after July 1, 2019, the provisions  
8 of this section shall be administered by the employer. The benefits during the first 12 months of  
9 the short-term disability period, including benefits from a preliminary determination of eligibility  
10 for long-term disability under subsection (f) of this section, shall be the full responsibility of and  
11 paid by the employer.

12 ...."

13 **SECTION 10.(b)** This section is effective when it becomes law and applies to  
14 applications for short-term disability benefits beginning on or after that date.

15 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes  
16 law.