

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

H.B. 985
May 22, 2018
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40684-MRp-112

Short Title: Retirement Technical Corrections Act of 2018.-AB (Public)

Sponsors: Representatives Dulin, Ross, and McNeill (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER CONFORMING AND
3 CLARIFYING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND
4 STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENT
5 EMPLOYEES' RETIREMENT SYSTEM, AND THE STATE HEALTH PLAN FOR
6 TEACHERS AND STATE EMPLOYEES AND TO OTHER RELATED STATUTES.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-105(g) reads as rewritten:

9 "(g) The Board of Trustees may extend the short-term disability benefits of a beneficiary
10 beyond the benefit period of 365 days for an additional period of not more than 365 days;
11 provided the Medical Board determines that the beneficiary's disability is temporary and likely
12 to end within the extended period of short-term disability benefits. During the extended period
13 of short-term disability benefits, payment of benefits shall be made by the Plan directly to the
14 beneficiary. This extended period of short-term disability benefits shall be treated in the same
15 manner as long-term disability payments for the purposes of G.S. 135-108."

16 **SECTION 2.** G.S. 128-27(e)(4) reads as rewritten:

17 "(4) As a condition to the receipt of the disability retirement allowance provided
18 for in G.S. 128-27(d), (d1), (d2) and (d3) each member retired on a disability
19 retirement allowance shall, on or before April 15 of each calendar year,
20 provide the Board of Trustees with a statement of his or her income received
21 as compensation for services, including fees, commissions or similar items,
22 and income received from business, for the previous calendar year. Such
23 statement shall be filed on a form as required by the Board of Trustees. The
24 benefit payable to a beneficiary who does not or refuses to provide the
25 information requested within ~~60~~120 days after such request may be suspended
26 until the information so requested is provided, and should such refusal or
27 failure to provide such information continue for ~~240~~180 days after such
28 request, the right of a beneficiary to a benefit under the Article may be
29 terminated.

30 The Director of the State Retirement Systems shall contact any State or
31 federal agency which can provide information to substantiate the statement
32 required to be submitted by this subdivision and may enter into agreements
33 for the exchange of information."

34 **SECTION 3.(a)** G.S. 135-5(a3) reads as rewritten:

35 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other
36 provision of this section, every service retirement allowance provided under this section for



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1 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a
2 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a
3 contribution-based benefit cap factor recommended by the actuary, based upon actual experience,
4 such that no more than three-quarters of one percent (0.75%) of retirement allowances are
5 expected to be capped. The Board of Trustees shall modify such factors every five years, as shall
6 be deemed necessary, based upon the five-year experience study as required by G.S. 135-6(n).
7 Prior to establishing a service retirement allowance under this section, the Board shall:

- 8 (1) Determine an amount equal to the member's accumulated contributions as
9 required under G.S. 135-8(b)(1) for all years during which the member earned
10 membership ~~services~~service, other than service earned through armed service
11 credit under G.S. 135-4(f) or G.S. 135-4(g), used in the calculation of the
12 retirement allowance that the member would receive under this section.
- 13 (2) Determine the amount of a single life annuity that is the actuarial equivalent
14 of the amount determined under subdivision (1) of this subsection, adjusted
15 for the age of the member at the time of retirement or, when appropriate, the
16 age at the time of the member's death.
- 17 (3) Multiply the annuity amount determined under subdivision (2) of this
18 subsection by the contribution-based benefit cap factor.
- 19 (4) Determine the amount of the retirement allowance that results from the
20 member's membership service.

21 The product of the multiplication in subdivision (3) of this subsection is the member's
22 contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection
23 exceeds the member's contribution-based benefit cap, the member's retirement allowance shall
24 be reduced by an amount equal to the difference between the contribution-based benefit cap and
25 the amount determined under subdivision (4) of this subsection.

26 Notwithstanding the foregoing, the retirement allowance of a member with an average final
27 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall
28 not be subject to the contribution-based benefit cap. The minimum average final compensation
29 necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be
30 increased on January 1 each year by the percent change between the ~~December~~June Consumer
31 Price Index in the year prior to retirement and the ~~December~~June Consumer Price Index in the
32 fiscal year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that
33 this percent change is positive.

34 Notwithstanding the foregoing, the retirement allowance of a member who became a member
35 before January 1, 2015, or who has not earned at least five years of membership service in the
36 Retirement System after January 1, 2015, shall not be reduced; however, the member's last
37 employer shall be required to make an additional contribution as specified in G.S. 135-8(f)(2)f.,
38 if applicable."

39 **SECTION 3.(b)** G.S. 128-27(a3) reads as rewritten:

40 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other
41 provision of this section, every service retirement allowance provided under this section for
42 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a
43 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a
44 contribution-based benefit cap factor recommended by the actuary, based upon actual experience,
45 such that no more than three-quarters of one percent (0.75%) of retirement allowances are
46 expected to be capped. The Board of Trustees shall modify such factors every five years, as shall
47 be deemed necessary, based upon the five-year experience study as required by G.S. 128-28(o).

48 Prior to establishing a service retirement allowance under this section, the Board shall:

- 49 (1) Determine an amount equal to the member's accumulated contributions as
50 required under G.S. 128-30(b)(1) for all years during which the member
51 earned membership ~~services~~service, other than service earned through armed

1 service credit under G.S. 128-26(a1) or G.S. 128-26(j1), used in the
2 calculation of the retirement allowance that the member would receive under
3 this section.

4 (2) Determine the amount of a single life annuity that is the actuarial equivalent
5 of the amount determined under subdivision (1) of this subsection, adjusted
6 for the age of the member at the time of retirement or, when appropriate, the
7 age at the time of the member's death.

8 (3) Multiply the annuity amount determined under subdivision (2) of this
9 subsection by the contribution-based benefit cap factor.

10 (4) Determine the amount of the retirement allowance that results from the
11 member's membership service.

12 The product of the multiplication in subdivision (3) of this subsection is the member's
13 contribution-based benefit cap. If the amount determined under subdivision (4) of this subsection
14 exceeds the member's contribution-based benefit cap, the member's retirement allowance shall
15 be reduced by an amount equal to the difference between the contribution-based benefit cap and
16 the amount determined under subdivision (4) of this subsection.

17 Notwithstanding the foregoing, the retirement allowance of a member with an average final
18 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall
19 not be subject to the contribution-based benefit cap. The minimum average final compensation
20 necessary for a retirement allowance to be subject to the contribution-based benefit cap shall be
21 increased on January 1 each year by the percent change between the ~~December~~June Consumer
22 Price Index in the year prior to retirement and the ~~December~~June Consumer Price Index in the
23 fiscal year most recently ended, calculated to the nearest tenth of a percent (0.1%), provided that
24 this percent change is positive.

25 Notwithstanding the foregoing, the retirement allowance of a member who became a member
26 before January 1, 2015, or who has not earned at least five years of membership service in the
27 Retirement System after January 1, 2015, shall not be reduced; however, the member's last
28 employer shall be required to make an additional contribution as specified in G.S. 128-30(g)(2)b.,
29 if applicable."

30 **SECTION 4.** G.S. 135-53(16) reads as rewritten:

31 "(16) "Retirement" under this Chapter shall mean the commencement of monthly
32 retirement benefits, along with the termination of employment and the
33 complete separation from active service with no intent or agreement,
34 expressed or implied, to return to service. A retirement allowance under the
35 provisions of this Chapter may only be granted upon retirement of a member.
36 In order for a member's retirement to become effective in any month, the
37 member must perform no work in a position covered by this Article or by an
38 Optional Retirement Program established under G.S. 135-5.1 or G.S. 135-5.4
39 at any time during the same month immediately following the effective first
40 day of retirement."

41 **SECTION 5.** G.S. 120-4.14 is repealed.

42 **SECTION 6.** G.S. 135-48.23(d) is repealed.

43 **SECTION 7.** G.S. 135-4(c) is repealed.

44 **SECTION 8.(a)** G.S. 135-6.1(e) reads as rewritten:

45 "(e) The Retirement Systems Division of the Department of State Treasurer may disclose
46 the name and mailing address of former State and local government employees, former public
47 school employees, or former community college employees to domiciled, nonprofit
48 organizations representing 10,000 or more retired State government, local government, or public
49 school employees."

50 **SECTION 8.(b)** G.S. 128-33.1(e) reads as rewritten:

1 "(e) The Retirement Systems Division of the Department of State Treasurer may disclose
2 the name and mailing address of former State and local government employees, former public
3 school employees, or former community college employees to domiciled, nonprofit
4 organizations representing 10,000 or more retired State government, local government, or public
5 school employees."

6 **SECTION 8.(c)** This section is effective July 22, 2016.

7 **SECTION 9.(a)** G.S. 58-86-55(d1) reads as rewritten:

8 "(d1) Benefits shall be paid in the following manner when a member is killed in the line of
9 duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

10 (1) If the member had been receiving a monthly pension fund benefit prior to
11 being killed in the line of duty, there shall be paid to the member's principal
12 beneficiary, if only one principal beneficiary is ~~eligible~~, eligible and has not
13 accepted a return of contributions, an amount of one hundred seventy dollars
14 (\$170.00) per month beginning the month following the member's month of
15 death, payable until the beneficiary's death.

16 (2) If the member had been receiving a monthly pension fund benefit prior to
17 being killed in the line of duty and the beneficiary is not payable as described
18 in subdivision (1) of this subsection, a lump sum payment equal to the
19 difference between the amount paid into the member's separate account by or
20 on behalf of the member and the amount received by the member as a
21 pensioner will be paid to the eligible beneficiaries, or if there are no eligible
22 beneficiaries, shall be paid to the member's estate.

23 (3) If the member had not yet begun receiving a monthly benefit prior to being
24 killed in the line of duty, there shall be paid to the member's principal
25 beneficiary, if only one principal beneficiary is ~~eligible~~, eligible and has not
26 accepted a return of contributions, an amount of one hundred seventy dollars
27 (\$170.00) per month beginning the month following the month the member
28 would have attained age 55, or if the member had already attained age 55,
29 beginning the month following the member's month of death, payable until
30 the beneficiary's death.

31 (4) If the member had not begun receiving a monthly benefit prior to being killed
32 in the line of duty and the beneficiary is not payable as described in
33 subdivision (3) of this subsection, a lump sum payment equal to the member's
34 contributions will be paid to the eligible beneficiaries, or if there are no
35 eligible beneficiaries, a return of the contributions shall be paid to the
36 member's estate.

37 A beneficiary under this subsection shall not be required to make the monthly payment of ten
38 dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after the member has been killed
39 in the line of duty."

40 **SECTION 9.(b)** This section becomes effective July 1, 2018.

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

42 "(20) "Retirement" under this Chapter, except as otherwise provided, means the
43 commencement of monthly retirement benefits along with termination of
44 employment and the complete separation from active service with no intent or
45 agreement, express or implied, to return to service. A retirement allowance
46 under the provisions of this Chapter may only be granted upon retirement of
47 a member. In order for a member's retirement to become effective in any
48 month, the member must perform no work for an employer, including
49 part-time, temporary, substitute, or contractor work, at any time during the six
50 months immediately following the effective date of retirement. ~~For purposes~~
51 ~~of this subdivision, working as a member of a school board, board of trustees~~

1 of a community college, board of trustees of any constituent institution of The
2 University of North Carolina, as an unpaid bona fide volunteer in a local
3 school administrative unit, or as an unpaid bona fide volunteer guardian ad
4 litem in the guardian ad litem program shall not be considered service or work,
5 and volunteering in positions normally designated as unpaid bona fide
6 volunteer positions during the six months immediately following the effective
7 date of retirement shall not be considered service. A member who is a full-time
8 faculty member of The University of North Carolina may effect a retirement
9 allowance under this Chapter, notwithstanding the six-month requirement
10 above, provided the member immediately enters the University's Phased
11 Retirement Program for Tenured Faculty as that program existed on May 25,
12 2011. For purposes of this subdivision, all of the following shall not be
13 considered service or work:

- 14 a. Serving as an unpaid bona fide volunteer in a local school
15 administrative unit.
- 16 b. Serving as an unpaid bona fide volunteer guardian ad litem in the
17 guardian ad litem program.
- 18 c. Serving on an authority, board, commission, committee, council, or
19 other body of the State or of one or more counties, cities, local school
20 administrative units, community colleges, constituent institutions of
21 The University of North Carolina, or other political subdivisions or
22 public corporations in the State, that is authorized to function as
23 legislative, policy-making, quasi-judicial, administrative, or advisory
24 body in a position that does not require membership in the Retirement
25 System.
- 26 d. Volunteering in a position normally designated as an unpaid bona fide
27 volunteer position."

28 **SECTION 11.(a)** 135-5(m2) reads as rewritten:

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

36 A member who became a member of the Supplemental Retirement Income Plan prior to
37 retirement and who remains a member of the Supplemental Retirement Income Plan may make
38 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax
39 contributions and the earnings thereon, from any of the following plans to the Supplemental
40 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement
41 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement
42 System: (i) a plan participating in the North Carolina Public School Teachers' and Professional
43 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;
44 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,
45 political subdivision of a state, or any agency or instrumentality of a state or political subdivision
46 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section
47 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be
48 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section
49 403(a) of the Internal Revenue Code.

50 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
51 cause the member's retirement allowance under the System to exceed the amount allowable under

1 G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be
2 transferred if a transfer is elected. The member may elect a special retirement allowance with no
3 postretirement increases or a special retirement allowance with annual postretirement increases
4 equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any
5 other allowance will not apply to the special retirement allowance. The Board of Trustees shall
6 provide educational materials to the members who apply for the transfer authorized by this
7 section. Those materials shall describe the special retirement allowance and shall explain the
8 relationship between the transferred balance and the monthly benefit and how the member's heirs
9 may be impacted by the election to make this transfer and any costs and fees involved.

10 For the purpose of determining the special retirement allowance, the Board of Trustees shall
11 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
12 and such other tables as may be necessary based upon actual experience. A single set of mortality
13 and such other tables will be used for all members, with factors differing only based on the age
14 of the member and the election of postretirement increases. The Board of Trustees shall modify
15 the mortality and such other tables every five years, as shall be deemed necessary, based upon
16 the five-year experience study as required by G.S. 135-6(n). Provided, however, a member who
17 transfers the member's eligible accumulated contributions from an eligible retirement plan
18 pursuant to this subsection to this Retirement System shall be taxed for North Carolina State
19 Income Tax purposes on the special retirement allowance the same as if that special retirement
20 allowance had been paid directly by the eligible plan or the plan through which the transfer was
21 made, whichever is most favorable to the member. The Teachers' and State Employees'
22 Retirement System shall be responsible to determine the taxable amount, if any, and report
23 accordingly.

24 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a
25 one-time flat administrative fee not to exceed the actual cost of the administrative expenses
26 relating to these transfers. An eligible plan shall not assess a fee specifically relating to a transfer
27 of accumulated contributions authorized under this subsection. This provision shall not prohibit
28 other fees that may be assessable under the plan. Each plan, contract, account, or annuity shall
29 fully disclose to any member participating in a transfer under this subsection any surrender
30 charges or other fees, and such disclosure shall be made contemporaneous with the initiation of
31 the transfer by the member.

32 The special retirement allowance shall continue for the life of the member and the beneficiary
33 designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in
34 G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment options that
35 guarantee payments as follows:

- 36 (1) A member may elect to receive the special retirement allowance for life but
37 with payments guaranteed for a number of months to be specified by the Board
38 of Trustees. Under this plan, if the member dies before the expiration of the
39 specified number of months, the special retirement allowance will continue to
40 be paid to the member's designated beneficiary for the life of the beneficiary,
41 if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's
42 designated beneficiary will receive the benefit only for the remainder of the
43 specified number of months. If the member's designated beneficiary dies
44 before receiving payments for the specified number of months, any remaining
45 payments will be paid to the member's estate.
- 46 (2) A member may elect to receive the special retirement allowance for life but is
47 guaranteed that the sum of the special allowance payments will equal the total
48 of the transferred amount. Under this payment option, if the member dies
49 before receiving the total transferred amount, the special retirement allowance
50 will continue to be paid to the member's designated beneficiary for the life of
51 the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,

1 the member's designated beneficiary or the member's estate shall be paid any
2 remaining balance of the transferred amount.

3 ~~The Board of Trustees shall report annually to the Joint Legislative Commission on~~
4 ~~Governmental Operations on the number of persons who made an election in the previous~~
5 ~~calendar year, with any recommendations it might make on amendment or repeal based on any~~
6 ~~identified problems.~~

7 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
8 or amendment shall not affect any person who has already made the one-time election provided
9 in this subsection."

10 **SECTION 11.(b)** G.S. 128-27(m2) reads as rewritten:

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

18 A member who became a member of the Supplemental Retirement Income Plan prior to
19 retirement and who remains a member of the Supplemental Retirement Income Plan may make
20 a one-time, irrevocable election to transfer eligible balances, not including any Roth after-tax
21 contributions and the earnings thereon, from any of the following plans to the Supplemental
22 Retirement Income Plan, subject to the applicable requirements of the Supplemental Retirement
23 Income Plan, and then through the Supplemental Retirement Income Plan to this Retirement
24 System (i) a plan participating in the North Carolina Public School Teachers' and Professional
25 Educators' Investment Plan; (ii) a plan described in section 403(b) of the Internal Revenue Code;
26 (iii) a plan described in section 457(b) of the Internal Revenue Code that is maintained by a state,
27 political subdivision of a state, or any agency or instrumentality of a state or political subdivision
28 of a state; (iv) an individual retirement account or annuity described in section 408(a) or section
29 408(b) of the Internal Revenue Code that is eligible to be rolled over and would otherwise be
30 includible in gross income; or (v) a tax-qualified plan described in section 401(a) or section
31 403(a) of the Internal Revenue Code.

32 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
33 cause the member's retirement allowance under the System to exceed the amount allowable under
34 G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be
35 transferred if a transfer is elected. The member may elect a special retirement allowance with no
36 postretirement increases or a special retirement allowance with annual postretirement increases
37 equal to the annual increase in the U.S. Consumer Price Index. Postretirement increases on any
38 other allowance will not apply to the special retirement allowance. The Board of Trustees shall
39 provide educational materials to the members who apply for the transfer authorized by this
40 section. Those materials shall describe the special retirement allowance and shall explain the
41 relationship between the transferred balance and the monthly benefit and how the member's heirs
42 may be impacted by the election to make this transfer and any costs and fees involved.

43 For the purpose of determining the special retirement allowance, the Board of Trustees shall
44 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
45 and such other tables as may be necessary based upon actual experience. A single set of mortality
46 and such other tables will be used for all members, with factors differing only based on the age
47 of the member and the election of postretirement increases. The Board of Trustees shall modify
48 the mortality and such other tables every five years, as shall be deemed necessary, based upon
49 the five-year experience study as required by G.S. 128-28(o). Provided, however, a member who
50 transfers the member's eligible accumulated contributions from an eligible retirement plan
51 pursuant to this subsection to this Retirement System shall be taxed for North Carolina State

1 Income Tax purposes on the special retirement allowance the same as if that special retirement
2 allowance had been paid directly by the eligible plan or the plan through which the transfer was
3 made, whichever is most favorable to the member. The Local Governmental Employees'
4 Retirement System shall be responsible to determine the taxable amount, if any, and report
5 accordingly.

6 The special retirement allowance shall continue for the life of the member and the beneficiary
7 designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as provided in
8 G.S. 128-27(g), if any. The Board of Trustees, however, shall establish two payment options that
9 guarantee payments as follows:

10 (1) A member may elect to receive the special retirement allowance for life but
11 with payments guaranteed for a number of months to be specified by the Board
12 of Trustees. Under this plan, if the member dies before the expiration of the
13 specified number of months, the special retirement allowance will continue to
14 be paid to the member's designated beneficiary for the life of the beneficiary,
15 if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected, the member's
16 designated beneficiary will receive the benefit only for the remainder of the
17 specified number of months. If the member's designated beneficiary dies
18 before receiving payments for the specified number of months, any remaining
19 payments will be paid to the member's estate.

20 (2) A member may elect to receive the special retirement allowance for life but is
21 guaranteed that the sum of the special allowance payments will equal the total
22 of the transferred amount. Under this payment option, if the member dies
23 before receiving the total transferred amount, the special retirement allowance
24 will continue to be paid to the member's designated beneficiary for the life of
25 the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,
26 the member's designated beneficiary or the member's estate shall be paid any
27 remaining balance of the transferred amount.

28 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess a
29 one-time flat administrative fee not to exceed the actual cost of the administrative expenses
30 relating to these transfers. An eligible plan shall not assess a fee specifically relating to a transfer
31 of accumulated contributions authorized under this subsection. This provision shall not prohibit
32 other fees that may be assessable under the plan. Each plan, contract, account, or annuity shall
33 fully disclose to any member participating in a transfer under this subsection any surrender
34 charges or other fees, and that disclosure shall be made contemporaneous with the initiation of
35 the transfer by the member.

36 ~~The Board of Trustees shall report annually to the Joint Legislative Commission on~~
37 ~~Governmental Operations on the number of persons who made an election in the previous~~
38 ~~calendar year, with any recommendations it might make on amendment or repeal based on any~~
39 ~~identified problems.~~

40 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
41 or amendment shall not affect any person who has already made the one-time election provided
42 in this subsection."

43 **SECTION 12.** G.S. 128-28(g) reads as rewritten:

44 "(g) Rules and Regulations. – Subject to the limitations of this ~~Chapter~~, Article, the Board
45 of Trustees shall, from time to time, establish rules and regulations for the administration of the
46 funds created by this ~~Chapter~~ Article and for the transaction of its business. The Board of Trustees
47 shall also, from time to time, in its discretion, adopt rules and regulations to prevent injustices
48 and inequalities which might otherwise arise in the administration of this ~~Chapter~~ Article."

49 **SECTION 13.** G.S. 128-30(j) reads as rewritten:

50 "(j) Pension Spiking Report. – Upon receipt of a report from the Retirement System
51 generated pursuant to ~~G.S. 135-8(f)(2)f., G.S. 128-30(g)(2)b.,~~ containing a list of employees for

1 whom the employer made a contribution to the North Carolina Local Governmental Employees'
2 Retirement System that is likely to require an additional employer contribution should the
3 employee elect to retire in the following 12 months, the employer's chief financial officer shall
4 transmit a copy of the report to the governing body of the employer, if applicable."

5 **SECTION 14.** G.S. 135-4(jj) reads as rewritten:

6 "(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
7 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established
8 in ~~G.S. 128-27(a3)~~, G.S. 135-5(a3), the retirement system shall notify the member and the
9 member's employer that the member's retirement allowance has been capped. The retirement
10 system shall compute and notify the member and the member's employer of the total additional
11 amount the member would need to contribute in order to make the member not subject to the
12 contribution-based benefit cap. This total additional amount shall be the actuarial equivalent of
13 a single life annuity adjusted for the age of the member at the time of retirement, or when
14 appropriate, the age at the time of the member's death that would have had to have been purchased
15 to increase the member's benefit to the pre-cap level. Except as otherwise provided in this
16 subsection, the member shall have until 90 days after notification regarding this additional
17 amount or until 90 days after the effective date of retirement, whichever is later, to submit a lump
18 sum payment to the annuity savings fund in order for the retirement system to restore the
19 retirement allowance to the uncapped amount. Nothing contained in this subsection shall prevent
20 an employer from paying all or part of the cost of the amount necessary to restore the member's
21 retirement allowance to the pre-cap amount. Notwithstanding the requirement that the payment
22 be made as a lump sum, the retirement system may allow an employer of a member who became
23 a member before January 1, 2015, or who has not earned at least five years of membership service
24 in the retirement system after January 1, 2015, to pay the lump-sum amount required in this
25 subsection on an installment payment plan under one of the following two options:

- 26 (1) Option one. – An installment payment plan ending no more than 15 months
27 after the retirement of the member.
- 28 (2) Option two. – An installment payment plan ending no more than 27 months
29 after the retirement of the member. Interest shall be assessed on the principal
30 amount of the contribution-based benefit cap liability owed and applied to any
31 installment payment plan term exceeding 12 months at a rate corresponding
32 with the interest rate assumption based on the most recent actuarial valuation
33 approved by the Board of Trustees.

34 Payment under both installment plans must be completed regardless of whether the member
35 continues to receive a recurring monthly retirement benefit through the end of the installment
36 period."

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