

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

H

1

HOUSE BILL 1074

Short Title: Omitted Membership Service/TSERS/LGERS. (Public)

Sponsors: Representatives Belk, Gill, Martin, and Hurley (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, Rules, Calendar, and Operations of the House

May 14, 2020

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAWS GOVERNING THE PURCHASE OF OMITTED
3 MEMBERSHIP SERVICE IN THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES'
5 RETIREMENT SYSTEM.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 135-4(v) reads as rewritten:

8 "(v) Omitted Membership Service. – A member who had service as an employee as
9 defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and
10 who was omitted from contributing membership through error may be allowed membership
11 service, after submitting clear and convincing evidence of the error, as follows:

- 12 (1) Within 90 days of the omission, by the payment of employee and employer
13 contributions that would have been paid; or
14 (2) After 90 days and prior to three years of the omission, by the payment of the
15 employee and employer contributions that would have been paid plus interest
16 compounded annually at a rate equal to the greater of the average yield on the
17 pension accumulation fund for the preceding calendar year or the actuarial
18 investment rate-of-return assumption, as adopted by the Board of Trustees; or
19 (3) After three years of the omission, by the payment of an amount equal to the
20 full cost of the service credits calculated on the basis of the assumptions used
21 for the purposes of the actuarial valuation of the system's liabilities, and shall
22 take into account the additional retirement allowance arising on account of
23 such additional service credit commencing at the earliest age at which a
24 member could retire on an unreduced retirement allowance, as determined by
25 the Board of Trustees upon the advice of the consulting actuary, plus an
26 administrative fee to be set by the Board of Trustees. Notwithstanding the
27 foregoing provisions of this subdivision that provide for the purchase of
28 service credits, the terms "full cost", "full liability", and "full actuarial cost"
29 include assumed annual post-retirement allowance increases, as determined
30 by the Board of Trustees, from the earliest age at which a member could retire
31 on an unreduced service allowance.

32 Nothing contained in this subsection shall prevent an employer or member from paying all
33 or a part of the cost of the omitted membership service; and to the extent paid by the employer,
34 the cost paid by the employer shall be credited to the pension accumulation fund; and to the



1 extent paid by the member, the cost paid by the members shall be credited to the member's
2 annuity savings account; provided, however, an employer does not discriminate against any
3 member or group of members in his employ in paying all or any part of the cost of the omitted
4 membership service. Upon request from an employee, an employer shall provide written
5 notification of the total hours worked in the preceding 12 months to an employee in a position
6 classified as part-time. An employer shall provide a copy of the notification to the Retirement
7 Systems Division upon request. In the event that an employee was classified as part-time in error
8 and was not eligible to earn membership service due to that error, and the employee has paid a
9 lump sum equal to the applicable employee contributions as set forth in subdivision (2) of this
10 subsection within one year of the omission, the employer shall be required to pay the applicable
11 employer contributions as set forth in subdivision (2) of this section."

12 **SECTION 1.(b)** G.S. 128-26(m) reads as rewritten:

13 "(m) Omitted Membership Service. – A member who had service as an employee as
14 defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and
15 who was omitted from contributing membership through error may be allowed membership
16 service, after submitting clear and convincing evidence of the error, as follows:

- 17 (1) within 90 days of the omission, by the payment of employee and employer
18 contributions that would have been paid; or
- 19 (2) after 90 days and prior to three years of the omission, by the payment of the
20 employee and employer contributions that would have been paid plus interest
21 compounded annually at a rate equal to the greater of the average yield on the
22 pension accumulation fund for the preceding calendar year or the actuarial
23 investment rate-of-return assumption, as adopted by the Board of Trustees; or
- 24 (3) after three years of the omission, by the payment of an amount equal to the
25 full cost of the service credits calculated on the basis of the assumptions used
26 for the purposes of the actuarial valuation of the System's liabilities, and shall
27 take into account the additional retirement allowance arising on account of
28 such additional service credit commencing at the earliest age at which a
29 member could retire on an unreduced retirement allowance, as determined by
30 the Board of Trustees upon the advice of the consulting actuary, plus an
31 administrative fee to be set by the Board of Trustees. Notwithstanding the
32 foregoing provisions of this subdivision that provide for the purchase of
33 service credits, the terms "full cost", "full liability", and "full actuarial cost"
34 include assumed annual post-retirement allowance increases, as determined
35 by the Board of Trustees, from the earliest age at which a member could retire
36 on an unreduced service allowance.

37 Nothing contained in this subsection shall prevent an employer or member from paying all
38 or a part of the cost of the omitted membership service; and to the extent paid by the employer,
39 the cost paid by the employer shall be credited to the pension accumulation fund; and to the
40 extent paid by the member, the cost paid by the members shall be credited to the member's
41 annuity savings account; provided, however, an employer does not discriminate against any
42 member or group of members in his employ in paying all or any part of the cost of the omitted
43 membership service. In the event an employer pays all or a part of the full actuarial cost as
44 determined in subdivision (3) of this subsection, the employer may, at its option, pay such amount
45 either in a lump sum or by increasing its "accrued liability contribution" for the remainder of its
46 accrued liability period. In the event an employer has satisfied its accrued liability contribution,
47 the employer may amortize its portion of the full actuarial cost over a period not to exceed ten
48 years. The expense of making an actuarial valuation to determine the accrued liability
49 contribution or the additional accrued liability contribution, required to amortize the portion of
50 the full actuarial cost paid by the employer, shall be paid by the employer in a lump sum at the
51 time of the actuarial valuation. Upon request from an employee, an employer shall provide

1 written notification of the total hours worked in the preceding 12 months to an employee in a
2 position classified as part-time. An employer shall provide a copy of the notification to the
3 Retirement Systems Division upon request. In the event that an employee was classified as
4 part-time in error and was not eligible to earn membership service due to that error, and the
5 employee has paid a lump sum equal to the applicable employee contributions as set forth in
6 subdivision (2) of this subsection within one year of the omission, the employer shall be required
7 to pay the applicable employer contributions as set forth in subdivision (2) of this subsection."

8 **SECTION 2.** This act becomes effective January 1, 2021, and applies to the purchase
9 of service for work performed on or after January 1, 2020.