

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

FILED SENATE
Mar 28, 2019
S.B. 399
PRINCIPAL CLERK

S

D

SENATE BILL DRS35167-MRp-69

Short Title: Rehire High-Need Teachers. (Public)

Sponsors: Senators Horner, Berger, and Chaudhuri (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW FOR RETIRED TEACHERS TO RETURN TO WORK IN HIGH-NEED
3 SCHOOLS WITHOUT ADVERSELY IMPACTING THE RETIRED TEACHERS'
4 BENEFITS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article 20 of Chapter 115C of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 115C-302.4. High-need retired teachers.**

9 (a) Definitions. – The following definitions apply in this section:

10 (1) High-need retired teacher. – A beneficiary of the Teachers' and State
11 Employees' Retirement System of North Carolina who meets both of the
12 following requirements:

13 a. Retired on or before February 1, 2019, after attaining (i) the age of at
14 least 65 with five years of creditable service, (ii) the age of at least 60
15 with 25 years of creditable service, or (iii) 30 years of creditable
16 service.

17 b. Is reemployed by a local school administrative unit to teach at a
18 high-need school.

19 (2) High-need school. – A school that, at any point on or after July 1, 2017, meets
20 one of the following criteria:

21 a. Is a Title I school. As used in this sub-subdivision, a Title I school is a
22 school identified under Part A of Title I of the Elementary and
23 Secondary Education Act of 1965, as amended.

24 b. Receives an overall school performance grade of D or F, as calculated
25 by the State Board of Education pursuant to G.S. 115C-83.15(d).

26 (3) STEM. – Science, technology, engineering, and mathematics.

27 (b) Salary Level. – A high-need retired teacher shall be compensated as follows:

28 (1) Except as provided in subdivision (2) of this subsection, a high-need retired
29 teacher shall be paid on the first step of the teacher salary schedule.

30 (2) If a high-need retired teacher serves as a teacher in any of the following
31 licensure areas, he or she shall be paid on the sixth step of the teacher salary
32 schedule:

33 a. STEM.

34 b. Special education.

35 (c) No Salary Supplements or Increase in Salary. – A high-need retired teacher shall not
36 receive any salary supplement or bonus. A high-need retired teacher shall not move beyond the



* D R S 3 5 1 6 7 - M R P - 6 9 *

1 salary steps prescribed by subsection (b) of this section, regardless of the length of time spent as
2 a high-need retired teacher.

3 (d) Term of Contract. – A contract between the local board of education and a high-need
4 retired teacher shall be for a term of no more than one school year.

5 (e) Identification of STEM and Special Education Licensure Areas. – The Superintendent
6 of Public Instruction shall identify and provide to each local school administrative unit a list of
7 STEM and special education licensure areas that qualify for reemployment pursuant to
8 subsection (b)(2) of this section. Local school administrative units shall make the list of STEM
9 and special education licensure areas available to high-need retired teachers."

10 **SECTION 2.(a)** G.S. 135-3(8) is amended by adding a new sub-subdivision to read:

11 "g. Notwithstanding sub-subdivisions c. and d. of this subdivision, the
12 computation of postretirement earnings of a beneficiary under this
13 subdivision, who retired on or before February 1, 2019, and who has
14 been retired at least six months shall not include earnings while the
15 beneficiary is employed to teach as a high-need retired teacher, as
16 defined under G.S. 115C-302.4(a)(1). The Department of Public
17 Instruction shall certify to the Retirement System that a beneficiary is
18 employed to teach by a local school administrative unit as a high-need
19 retired teacher, as defined under G.S. 115C-302.4(a)(1).

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

23 **SECTION 2.(b)** G.S. 135-3(8)c1. reads as rewritten:

24 "c1. Within 90 days of the end of each month in which a beneficiary is
25 reemployed under the provisions of ~~sub-subdivision~~ sub-subdivisions
26 c. and g. of this subdivision, each employer shall provide a report for
27 that month on each reemployed beneficiary, including the terms of the
28 reemployment, the date of the reemployment, and the amount of the
29 monthly compensation. If such a report is not received within the
30 required 90 days, the Board may assess the employer with a penalty of
31 ten percent (10%) of the compensation of the unreported reemployed
32 beneficiaries during the months for which the employer did not report
33 the reemployed beneficiaries, with a minimum penalty of twenty-five
34 dollars (\$25.00). If after being assessed a penalty, an employer
35 provides clear and convincing evidence that the failure to report
36 resulted from a lack of oversight or some other event beyond the
37 employer's control and was not a deliberate attempt to omit the
38 reporting of reemployed beneficiaries, the Board may reduce the
39 penalty to not less than two percent (2%) of the compensation of the
40 unreported reemployed beneficiaries during the months for which the
41 employer failed to report, with a minimum penalty of twenty-five
42 dollars (\$25.00). Upon receipt by the employer of notice that a penalty
43 has been assessed under this sub-subdivision, the employer shall remit
44 the payment of the penalty to the Retirement System, in one lump sum,
45 no later than 90 days from the date of the notice."

46 **SECTION 3.** G.S. 135-1(10) reads as rewritten:

47 "(10) "Employee" shall mean all full-time employees, agents or officers of the State
48 of North Carolina or any of its departments, bureaus and institutions other than
49 educational, whether such employees are elected, appointed or employed:
50 Provided that the term "employee" shall not include any person who is a
51 member of the Consolidated Judicial Retirement System, any member of the

1 ~~General Assembly or Assembly,~~ any part-time or temporary ~~employee-~~
2 employee, or any high-need retired teacher as defined under
3 G.S. 115C-302.4(a)(1). Notwithstanding any other provision of law,
4 "employee" shall include all employees of the General Assembly except
5 participants in the Legislative Intern Program, pages, and beneficiaries in
6 receipt of a monthly retirement allowance under this Chapter who are
7 reemployed on a temporary basis. "Employee" also includes any participant
8 whose employment is interrupted by reason of service in the Uniformed
9 Services, as that term is defined in section 4303(16) of the Uniformed Services
10 Employment and Reemployment Rights Act, Public Law 103-353, if that
11 participant was an employee at the time of the interruption; if the participant
12 does not return immediately after that service to employment with a covered
13 employer in this System, then the participant shall be deemed "in service" until
14 the date on which the participant was first eligible to be separated or released
15 from his or her involuntary military service. In all cases of doubt, the Board
16 of Trustees shall determine whether any person is an employee as defined in
17 this Chapter. "Employee" shall also mean every full-time civilian employee
18 of the North Carolina National Guard who is employed pursuant to section
19 709 of Title 32 of the United States Code and paid from federal appropriated
20 funds, but held by the federal authorities not to be a federal employee:
21 Provided, however, that the authority or agency paying the salaries of such
22 employees shall deduct or cause to be deducted from each employee's salary
23 the employee's contribution in accordance with applicable provisions of
24 G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement
25 System; coverage of employees described in this sentence shall commence
26 upon the first day of the calendar year or fiscal year, whichever is earlier, next
27 following the date of execution of an agreement between the Secretary of
28 Defense of the United States and the Adjutant General of the State acting for
29 the Governor in behalf of the State, but no credit shall be allowed pursuant to
30 this sentence for any service previously rendered in the above-described
31 capacity as a civilian employee of the North Carolina National Guard:
32 Provided, further, that the Adjutant General, in the Adjutant General's
33 discretion, may terminate the Retirement System coverage of the
34 above-described North Carolina National Guard employees if a federal
35 retirement system is established for such employees and the Adjutant General
36 elects to secure coverage of such employees under such federal retirement
37 system. Any full-time civilian employee of the North Carolina National Guard
38 described above who is now or hereafter may become a member of the
39 Retirement System may secure Retirement System credit for such service as
40 a North Carolina National Guard civilian employee for the period preceding
41 the time when such employees became eligible for Retirement System
42 coverage by paying to the Retirement System an amount equal to that which
43 would have constituted employee contributions if the employee had been a
44 member during the years of ineligibility, plus interest. Employees of State
45 agencies, departments, institutions, boards, and commissions who are
46 employed in permanent job positions on a recurring basis must work at least
47 30 hours per week for nine or more months per calendar year in order to be
48 covered by the provisions of this ~~subdivision-~~subdivision, except that no
49 high-need retired teacher as defined under G.S. 115C-302.4(a)(1) shall be
50 considered an employee. On and after August 1, 2001, a person who is a
51 nonimmigrant alien and who otherwise meets the requirements of this

1 subdivision shall not be excluded from the definition of "employee" solely
2 because the person holds a temporary or time-limited visa."

3 **SECTION 4.** G.S. 135-48.40(b)(1a) reads as rewritten:

4 "(1a) All retirees who (i) are employed by an employing unit that elects to be
5 covered by this subdivision, (ii) do not qualify for coverage under subdivision
6 (1) of this subsection, and (iii) are determined to be "full-time" by their
7 employing unit in accordance with section 4980H of the Internal Revenue
8 Code and the applicable regulations, as ~~amended~~-amended, or are high-need
9 retired teachers, as defined under G.S. 115C-302.4(a)(1). The employing unit
10 shall pay the employer premiums for retirees who enroll under this
11 subdivision."

12 **SECTION 5.** If the Internal Revenue Service determines that the provisions of
13 G.S. 135-3(8)g. relating to the computation of postretirement earnings of retired teachers
14 jeopardize the status of the Teachers' and State Employees' Retirement System of North Carolina
15 under the Internal Revenue Code, then this act is repealed 30 days from receipt of that
16 determination by the State Treasurer. Upon receipt of that determination, the State Treasurer shall
17 notify the Revisor of Statutes of the determination and the date of receipt. Within one business
18 day of receipt of the determination, the State Treasurer shall notify all local school administrative
19 units of the repeal of this act and shall publicly notice the receipt of this information on the
20 Department of State Treasurer Web site. Within one business day of receipt of the notice from
21 the State Treasurer, a local school administrative unit shall notify all high-need retired teachers
22 employed by that local school administrative unit of the repeal of this act.

23 **SECTION 6.** This act becomes effective July 1, 2019, and expires June 30, 2021.