

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2017

**H.B. 115**  
**Feb 15, 2017**  
**HOUSE PRINCIPAL CLERK**

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HOUSE BILL DRH40067-MR-7 (11/28)

Short Title: Retirement Technical Corrections Act of 2017.-AB (Public)

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

Referred to:

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER CONFORMING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM, AND OTHER RELATED STATUTES.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** G.S. 135-1(5) reads as rewritten:

"(5) "Average final compensation" shall mean the average annual compensation of a member during the four consecutive calendar years of membership service producing the highest such average; but shall not include any compensation, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. Payout of vacation leave shall be included in "average final compensation" only if the payout is received by the member during the four consecutive calendar years of membership service producing the highest average annual compensation of the member. In the event a member is or has been in receipt of a benefit under the provisions of G.S. 135-105 or G.S. 135-106, the compensation used in the calculation of "average final compensation" shall be the higher of compensation of the member under the provisions of this Article or compensation used in calculating the payment of benefits under Article 6 of this Chapter as adjusted for percentage increases in the post disability benefit."

**SECTION 1.(b)** G.S. 128-21(5) reads as rewritten:

"(5) "Average final compensation" shall mean the average annual compensation, not including any terminal payments for unused sick leave, of a member during the four consecutive calendar years of creditable service producing the highest such average; but shall not include any compensation, as determined by the Board of Trustees, for the reimbursement of expenses or payments for housing or any other allowances whether or not classified as salary and wages. Payout of vacation leave shall be included in "average final compensation" only if the payout is received by the member during the four consecutive calendar years of membership service producing the highest average annual compensation of the member."

**SECTION 2.(a)** G.S. 135-8(b)(5) reads as rewritten:

"(5) The Board of Trustees may approve the purchase of creditable service by any member for leaves of absence or for interrupted service to an employer only for



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1 the purpose of acquiring knowledge, talents, or abilities and to increase the  
2 efficiency of service to the employer, subject to the provisions of this  
3 subdivision. A leave of absence or interrupted service may be approved for  
4 purchase under this subdivision for a period of employment as a teacher in a  
5 charter school. Any other leave of absence or interrupted service shall qualify  
6 for purchase under this subdivision only if (i) during the time of the leave or  
7 interrupted service the member is enrolled and participates in a full time degree  
8 program at an accredited institution of higher education, (ii) the member is not  
9 paid compensation, other than a stipend resulting from participation in a  
10 full-time degree program, for the activity in which he or she is acquiring  
11 knowledge, talents, or abilities, and (iii) the service is not purchased for any  
12 month in which the member performed any services for any of the  
13 organizations listed in G.S. 135 27(a) or G.S. 135 27(f), or a successor to any of  
14 those organizations. Approval by the Board under this subdivision shall be  
15 made prior to the purchase of the creditable service, is limited to a career total  
16 of six years for each member, and may be obtained in the following manner:  
17

...."

18 **SECTION 2.(b)** G.S. 128-30(b)(4) reads as rewritten:

19 "(4) The Board of Trustees may approve the purchase of creditable service by any  
20 member for leaves of absence or for interrupted service to an employer only for  
21 the purpose of acquiring knowledge, talents, or abilities and to increase the  
22 efficiency of service to the employer, subject to the provisions of this  
23 subdivision. A leave of absence or interrupted service may be approved for  
24 purchase under this subdivision for a period of employment as a teacher in a  
25 charter school. Any other leave of absence or interrupted service shall qualify  
26 for purchase under this subdivision only if (i) during the time of the leave or  
27 interrupted service the member is enrolled and participates in a full-time degree  
28 program at an accredited institution of higher education, (ii) the member is not  
29 paid compensation, other than a stipend resulting from participation in a  
30 full-time degree program, for the activity in which he or she is acquiring  
31 knowledge, talents, or abilities, and (iii) the service is not purchased for any  
32 month in which the member performed any services for any of the  
33 organizations listed in G.S. 135-27(a) or G.S. 135-27(f), or a successor to any  
34 of those organizations. Approval by the Board under this subdivision shall be  
35 made prior to the purchase of the creditable service, is limited to a career total  
36 of four years for each member, and may be obtained in the following manner:  
37

...."

38 **SECTION 3.** G.S. 135-48.12 is amended by adding a new subsection to read:

39 "(i) The Committee shall adopt a funding policy and shall include information about the  
40 State's contribution policy, including the basis for determining contributions in the annual actuarial  
41 valuation."

42 **SECTION 4.** G.S. 147-86.59 reads as rewritten:

43 **"§ 147-86.59. Certification required.**

44 (a) A State agency shall ~~require~~ certify that a person that attempts to contract with the  
45 State or political subdivision of the State, ~~including a contract renewal or assumption, to certify, at~~  
46 ~~the time~~ State is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58  
47 when the bid is submitted or the contract is entered into, renewed, or assigned, that the person or  
48 the assignee is not identified on a list created by the State Treasurer pursuant to G.S. 147-86.58.  
49 assigned. "Attempts to contract" include a contract renewal or assumption. A State agency shall  
50 include certification information in the procurement record. If a State agency and the same person

1 enter into multiple contracts or multiple contract renewals or assumptions within 180 days after a  
2 certification is made, a new certification need not be made.

3 (b) A person that contracts with the State or a political subdivision of the State, including a  
4 contract renewal or assumption, shall not utilize on the contract with the State agency any  
5 subcontractor that is identified on a list created pursuant to G.S. 147-86.58.

6 (c) Upon receiving information that a person who has ~~made the certification~~ been certified  
7 as required by subsection (a) of this section is in violation thereof, the State agency shall review  
8 the information and offer the person an opportunity to respond. If the person fails to demonstrate  
9 that the person should not have been identified on the list created pursuant to G.S. 147-86.58  
10 within 90 days after the determination of the violation, then the State agency shall take action as  
11 may be appropriate and provided for by law, rule, or contract."

12 **SECTION 5.(a)** G.S. 147-86.72(h) reads as rewritten:

13 "(h) ~~Other States~~ States Contracting for North Carolina to Provide Program. – With consent  
14 of the State Treasurer, the Board may enter into agreements with other states to either (i) allow  
15 North Carolina residents to participate in a plan operated by a contracting state with a qualified  
16 ABLE program or (ii) allow residents of other states to participate in the qualified North Carolina  
17 ABLE Program Trust."

18 **SECTION 5.(b)** G.S. 147-86.72 is amended by adding a new subsection to read:

19 "(i) Arrangements for North Carolina Program to Be Provided in Partnership With Other  
20 States. – Notwithstanding any other provision of this Article, in addition to or in lieu of  
21 establishing a North Carolina ABLE Program and ABLE Program Trust, the Board may do either  
22 of the following:

23 (1) Enter into an agreement with one or more states, or a consortium of states, that  
24 has a qualified ABLE program for the provision of all services necessary to  
25 allow residents of North Carolina to participate in the qualified ABLE program  
26 of the other state, states, or consortium.

27 (2) Facilitate or otherwise provide access to allow residents of North Carolina to  
28 participate in qualified ABLE programs operated by another state, states, or  
29 consortium.

30 The Board shall take action only after due diligence that includes a fiduciary analysis that  
31 indicates the qualified ABLE program offered by the other state, states, or consortium will (i) meet  
32 all the requirements of this Article and (ii) be more efficient and cost-effective than an ABLE  
33 program provided directly by the Board. If the Board enters into an arrangement authorized by this  
34 subsection, the Board shall meet on a semiannual basis to evaluate the effectiveness of the services  
35 being provided."

36 **SECTION 6.** G.S. 147-69.2(a) is amended by adding a new subdivision to read:

37 "(21) The Disability Income Plan of North Carolina."

38 **SECTION 7.** Section 2 of S.L. 2015-68 is repealed.

39 **SECTION 8.** G.S. 147-69.12(e) is repealed.

40 **SECTION 9.** If any provision of this act or its application is held invalid, the  
41 invalidity does not affect other provisions or applications of this act that can be given effect  
42 without the invalid provisions or application, and, to this end, the provisions of this act are  
43 severable.

44 **SECTION 10.** This act is effective when it becomes law.