

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1991**

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**SENATE BILL 270**

Short Title: Remove Educational Leave Limit.

(Public)

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Sponsors: Senator Cooper.

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Referred to: State Personnel and State Government.

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March 25, 1991

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE CAREER LIMITATION FOR EMPLOYER-  
APPROVED EDUCATIONAL LEAVES OF ABSENCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-8(b) reads as rewritten:

"(b) Annuity Savings Fund. – The annuity savings fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to any payments from the annuity savings fund shall be made as follows:

- (1) Prior to the first day of July, 1947, each employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period four per centum (4%) of his actual compensation; and the employer also shall deduct four per centum (4%) of any compensation received by any member for teaching in public schools, or in any of the institutions, agencies or departments of the State, from salaries other than the appropriations from the State of North Carolina. On and after such date the rate so deducted shall be five per centum (5%) of actual compensation except that, with respect to each member who is eligible for coverage under the Social Security Act in accordance with the agreement entered into during 1955 in accordance with the provisions of Article 2 of Chapter 135 of Volume 3B of the General Statutes, as amended, and with respect to members covered under G.S. 135-27, with such coverage retroactive to January 1, 1955, such deduction shall, commencing with

1 the first day of the period of service with respect to which such  
2 agreement is effective, be at the rate of three per centum (3%) of the  
3 part of his actual compensation not in excess of the amount taxable to  
4 him under the Federal Insurance Contributions Act as from time to  
5 time in effect plus five per centum (5%) of the part of his earnable  
6 compensation not so taxable; provided that in the case of any member  
7 so eligible and receiving compensation from two or more employers  
8 such deductions may be adjusted under such rules as the Board of  
9 Trustees may establish so as to be as nearly equivalent as practicable  
10 to the deductions which would have been made had the member  
11 received all of such compensation from one employer.  
12 Notwithstanding the foregoing, the Board of Trustees may in its  
13 discretion cause such portion as it may determine of deductions made  
14 between January 1, 1955, and December 1, 1955, to be transferred into  
15 the contribution fund established under G.S. 135-24; such amounts so  
16 transferred shall in that event be deemed to be taxes contributed by  
17 employees as required under Article 2, Chapter 135 of Volume 3B of  
18 the General Statutes as amended, and shall be in lieu of contributions  
19 otherwise payable in the same amount as so required.

20 Notwithstanding the foregoing, effective July 1, 1963, with respect  
21 to the period of service commencing on July 1, 1963, and ending  
22 December 31, 1965, the rates of such deduction shall be four per  
23 centum (4%) of the portion of compensation not in excess of forty-  
24 eight hundred dollars (\$4,800) and six per centum (6%) of the portion  
25 of compensation in excess of forty-eight hundred dollars (\$4,800); and  
26 with respect to the period of service commencing January 1, 1966, and  
27 ending June 30, 1967, the rate of such deductions shall be four per  
28 centum (4%) of the portion of compensation not in excess of fifty-six  
29 hundred dollars (\$5,600) and six per centum (6%) of the portion of  
30 compensation in excess of fifty-six hundred dollars (\$5,600); and with  
31 respect to the period of service commencing July 1, 1967, and ending  
32 June 30, 1975, the rate of such deductions shall be five per centum  
33 (5%) of the portion of compensation not in excess of fifty-six hundred  
34 dollars (\$5,600) and six per centum (6%) of the portion of  
35 compensation in excess of fifty-six hundred dollars (\$5,600). Such  
36 rates shall apply uniformly to all members of the Retirement System,  
37 without regard to their coverage under the Social Security Act.

38 Notwithstanding the foregoing, effective July 1, 1975, with respect  
39 to the period of service commencing on July 1, 1975, the rate of such  
40 deductions shall be six per centum (6%) of the compensation received  
41 by any member. Such rates shall apply uniformly to all members of the  
42 Retirement System, without regard to their coverage under the Social  
43 Security Act.

- 1           (2)    The deductions provided for herein shall be made notwithstanding that  
2                    the minimum compensation provided for by law for any member shall  
3                    be reduced thereby. Every member shall be deemed to consent and  
4                    agree to the deductions made and provided for herein and shall receipt  
5                    for his full salary or compensation, and payment of salary or  
6                    compensation less said deduction shall be a full and complete  
7                    discharge and acquittance of all claims and demands whatsoever for  
8                    the services rendered by such person during the period covered by  
9                    such payment, except as to the benefits provided under this Chapter.  
10                  The employer shall certify to the Board of Trustees on each and every  
11                  payroll or in such other manner as the Board of Trustees may  
12                  prescribe, the amounts to be deducted; and each of said amounts shall  
13                  be deducted, and when deducted shall be paid into said annuity savings  
14                  fund, and shall be credited, together with regular interest thereon, to  
15                  the individual account of the member from whose compensation said  
16                  deduction was made.
- 17           (3)    Each board of education of each county and each board of education of  
18                    each city, and the employer in any department, agency or institution of  
19                    the State, in which any teacher receives compensation from sources  
20                    other than appropriations of the State of North Carolina shall deduct  
21                    from the salaries of these teachers paid from sources other than State  
22                    appropriations an amount equal to that deducted from the salaries of  
23                    the teachers whose salaries are paid from State funds, and remit this  
24                    amount to the State Retirement System. City boards of education and  
25                    county boards of education in each and every county and city which  
26                    has employees compensated from other than the State appropriation  
27                    shall pay to the State Retirement System the same per centum of the  
28                    compensation that the State of North Carolina pays and shall transmit  
29                    same to the State Retirement System monthly: Provided, that for the  
30                    purpose of enabling the boards of education to make such payment, the  
31                    tax-levying authorities are hereby authorized, empowered and directed  
32                    to provide the necessary funds therefor. In case the salary is paid in  
33                    part from State funds and in part from local funds, the local authorities  
34                    shall not be relieved of providing and remitting the same per centum of  
35                    the salary paid from local funds as is paid from State funds. In case the  
36                    entire salary of any teacher, as defined in this Chapter, is paid from  
37                    county or local funds, the county or city paying such salary shall  
38                    provide and remit to the Retirement System the same per centum that  
39                    would be required if the salary were provided by the State of North  
40                    Carolina.
- 41           (4)    In addition to contributions deducted from compensation as  
42                    hereinbefore provided, subject to the approval of the Board of  
43                    Trustees, any member may redeposit in the annuity savings fund by a  
44                    single payment an amount equal to the total amount which he

1 previously withdrew therefrom, as provided in this Chapter. Such  
2 amounts so redeposited shall become a part of his accumulated  
3 contributions as if such amounts had initially been contributed within  
4 the calendar year of such redeposit. In no event, however, shall any  
5 member be permitted to redeposit any amount withdrawn after July 1,  
6 1959, except as provided for in G.S. 135-4(e).

7 (5) The Board of Trustees may approve the purchase of creditable service  
8 by any member for leaves of absence or for interrupted service to an  
9 employer for the sole purpose of acquiring knowledge, talents, or  
10 abilities and to increase the efficiency of service to the employer. This  
11 approval shall be made prior to the purchase of the creditable service,  
12 ~~is limited to a career total of four years for each member,~~ and may be  
13 obtained in the following manner:

14 a. Approved leave of absence. – Where the employer grants an  
15 approved leave of absence, a member may make monthly  
16 contributions to the annuity savings fund on the basis of  
17 compensation the member was earning immediately prior to  
18 such leave of absence. The employer shall make monthly  
19 contributions equal to the normal and accrued liability  
20 contribution on such compensation or, in lieu thereof, the  
21 member may pay into the annuity savings fund monthly an  
22 amount equal to the employer's normal and accrued liability  
23 contribution when the policy of the employer is not to make  
24 such payment.

25 b. No educational leave policy. – Where the employer has a policy  
26 of not granting educational leaves of absence or the member has  
27 unsuccessfully petitioned for leave of absence and the member  
28 has interrupted service for educational purposes, the member  
29 may make monthly contributions into the annuity savings fund  
30 in an amount equal to the employee contribution plus the  
31 employer normal and accrued liability contribution on the basis  
32 of the compensation the member was earning immediately prior  
33 to the interrupted service.

34 c. Educational program prior to July 1, 1981. – Creditable service  
35 for leaves of absence or interrupted service for educational  
36 purposes prior to July 1, 1981, may be purchased by a member,  
37 before or after retirement, who returned as a contributing  
38 employee or teacher within 12 months after completing the  
39 educational program and completed 10 years of subsequent  
40 membership service, by making a lump sum payment into the  
41 annuity savings fund equal to the full cost of the service credits  
42 calculated on the basis of the assumptions used for purposes of  
43 the actuarial valuation of the system's liabilities and shall take  
44 into account the retirement allowance arising on account of the

1 additional service credit commencing at the earliest age at  
2 which the member could retire on an unreduced retirement  
3 allowance as determined by the Board of Trustees upon the  
4 advice of the consulting actuary, plus a fee to be determined by  
5 the Board of Trustees.

6 Payments required to be made by the member and/or the employer  
7 under subparagraphs a or b are due by the 15th of the month following  
8 the month for which the service credit is allowed and payments made  
9 after the due date shall be assessed a penalty, in lieu of interest, of one  
10 percent (1%) per month or fraction thereof the payment is made  
11 beyond the due date; provided, that these payments shall be made prior  
12 to retirement and provided further, that if the member did not become  
13 a contributing member within 12 months after completing the  
14 educational program and failed to complete three years of subsequent  
15 membership service, except in the event of death or disability, any  
16 payment made by the member including penalty shall be refunded with  
17 regular interest thereon and the service credits cancelled prior to or at  
18 retirement.

- 19 (6) The contributions of a member, and such interest as may be allowed  
20 thereon, paid upon his death or withdrawn by him as provided in this  
21 Chapter, shall be paid from the annuity savings fund, and any balance  
22 of the accumulated contributions of such a member shall be transferred  
23 to the pension accumulation fund."

24 Sec. 2. This act is effective retroactively to January 1, 1991, and applies to  
25 employer-approved leaves of absence granted on or after that date.