

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

S

1

SENATE BILL 817

Short Title: Deferred Retirement Option Program.

(Public)

Sponsors: Senator Rand.

Referred to: State Government, Local Government, and Veterans' Affairs.

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO ALLOW RETIREES WITH SPECIAL EXPERTISE TO RETIRE UNDER A DEFERRED RETIREMENT OPTION PROGRAM, AS RECOMMENDED BY THE GOVERNOR'S COMMISSION TO PROMOTE GOVERNMENT EFFICIENCY AND SAVINGS ON STATE SPENDING.

The General Assembly of North Carolina enacts:

**SECTION 1.** Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-18.9. Deferred Retirement Option Program.**

(a) A member who is eligible for service retirement under this Chapter and whose job title or classification has been designated by the Board of Trustees of the Teachers' and State Employees' Retirement System as a position requiring expertise that is difficult to obtain through the recruitment process may, upon compliance with the requirements of this section participate in the Teachers' and State Employees' Deferred Retirement Option Program. During the final quarter of each calendar year, the Board of Trustees shall compile a list of job titles or classifications eligible for the Deferred Retirement Option Program during the upcoming calendar year.

A member selected to participate in the program retires for purposes of the System, and the member's normal retirement benefit is calculated on the basis of the member's average final compensation and service credit at the time the program period begins. The program participant shall agree to continue employment with an employer participating in the System for a program period, not to exceed five years. Such employment shall be with the same agency or department from which the member retired, unless the list compiled by the Board of Trustees for that calendar year indicates that the job title or classification in question is eligible for employment with any agency or department. The member shall notify the System before the beginning of the program period. Participation in the program does not guarantee employment for the specified program period.

1       **(b)** During the specified program period, receipt of the member's normal  
2 retirement benefit is deferred. The member's deferred monthly payment shall be placed  
3 in the System's trust fund on behalf of the member. No interest shall be paid on the  
4 member's deferred monthly benefit placed in the trust fund during the specified program  
5 period.

6       **(c)** During the specified program period, the employer shall pay to the System  
7 the employer contribution for active members prescribed by law with respect to any  
8 program participant it employs, regardless of whether the program participant is a  
9 part-time employee, a temporary employee, or a full-time employee. If an employer  
10 who is obligated to the System pursuant to this subsection fails to pay the amount due,  
11 as determined by the System, the amount shall be deducted from any funds payable to  
12 the employer by the State.

13       **(d)** A program participant is retired from the System as of the beginning of the  
14 program period. A program participant makes no further employee contributions to the  
15 System, accrues no service credit during the program period, and is not eligible to  
16 receive group life insurance benefits or disability retirement benefits. Accrued annual  
17 leave and sick leave used in any manner in the calculation of the program participant's  
18 retirement benefits is deducted from the amount of that leave accrued by the participant.

19       **(e)** A program participant is retired for retirement purposes only. For  
20 employment purposes, a program participant is considered to be an active employee,  
21 retaining all other rights and benefits of an active employee and is not subject to the  
22 earnings limitation of G.S. 135-3(8)c. during the program period.

23       **(f)** Upon termination of employment either during or at the end of the program  
24 period, the member shall receive the balance in the member's program account by  
25 electing one of the following distribution alternatives:

26           **(1)** A lump-sum distribution, paying appropriate taxes; or

27           **(2)** To the extent permitted by law, a tax-sheltered rollover into an eligible  
28 plan.

29       The member also shall receive the previously determined normal retirement benefits  
30 based upon the member's average final compensation and service credit at the time the  
31 program period began, plus any applicable cost-of-living increases declared during the  
32 program period. The program participant is thereafter subject to the earning limitation  
33 of G.S. 135-3(8)c.

34       **(g)** If a program participant dies during the specified program period, the  
35 member's designated beneficiary shall receive the balance in the member's program  
36 account by electing one of the distribution alternatives set forth in subsection (f) of this  
37 section. In accordance with the form of System benefit selected by the member at the  
38 time the program commenced, the member's designated beneficiary shall receive either  
39 a survivor benefit or a refund of contributions from the member's System account.

40       **(h)** If a program participant fails to terminate employment with an employer  
41 participating in the System within one month after the end of the specified program  
42 period, the member shall receive the previously determined normal retirement benefits  
43 based upon the member's average final compensation and service credit at the time the  
44 program began, plus any applicable cost-of-living increases declared during the

1 program period. The program participant is thereafter subject to the earning limitation  
2 of G.S. 135-3(8)c. The program participant also shall receive the balance in the  
3 member's program account by selecting one of the distribution alternatives set forth in  
4 subsection (f) of this section.

5 (i) A member is not eligible to participate in the program if the member has  
6 participated previously in and received a benefit under this program or any other state  
7 retirement system."

8 **SECTION 2.** This act becomes effective January 1, 2004, and applies to  
9 persons eligible to retire from the Teachers' and State Employees' Retirement System on  
10 or after that date.