

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 841

Short Title: Retention Incentive Program.

(Public)

Sponsors: Representatives Preston and McLawhorn (Primary Sponsors).

Referred to: Pensions and Retirement.

April 2, 2003

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A RETENTION INCENTIVE PROGRAM FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM.

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. Retention Incentive Program.

(a) A member who is eligible for service retirement under this Chapter and complies with the requirements of this section may elect to participate in the Teachers' and State Employees' Retention Incentive Program. A member electing 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. 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.

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

(c) During the specified program period, the employer shall pay to the System the employer contribution for active members prescribed by law with respect to any program participant it employs, regardless of whether the program participant is a part-time employee, a temporary employee, or a full-time employee. If an employer who is obligated to the System pursuant to this subsection fails to pay the amount due,

1 as determined by the System, the amount shall be deducted from any funds payable to
2 the employer by the State.

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

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

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

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

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

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

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

30 (h) If a program participant fails to terminate employment with an employer
31 participating in the System within one month after the end of the specified program
32 period, the member shall receive the previously determined normal retirement benefits
33 based upon the member's average final compensation and service credit at the time the
34 program began, plus any applicable cost-of-living increases declared during the
35 program period. The program participant is thereafter subject to the earning limitation
36 of G.S. 135-3(8)c. The program participant also shall receive the balance in the
37 member's program account by selecting one of the distribution alternatives set forth in
38 subsection (f) of this section.

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

42 **SECTION 2.** G.S. 135-3(8)c. reads as rewritten:

43 c. **(Effective until June 30, 2004 – See note)** Should a
44 beneficiary who retired on an early or service retirement

1 allowance under this Chapter be reemployed, or otherwise
2 engaged to perform services, by an employer participating in
3 the Retirement System on a part-time, temporary, interim, or on
4 a fee-for-service basis, whether contractual or otherwise, and if
5 such beneficiary earns an amount during the 12-month period
6 immediately following the effective date of retirement or in any
7 calendar year which exceeds fifty percent (50%) of the reported
8 compensation, excluding terminal payments, during the 12
9 months of service preceding the effective date of retirement, or
10 twenty thousand dollars (\$20,000), whichever is greater, as
11 hereinafter indexed, then the retirement allowance shall be
12 suspended as of the first day of the month following the month
13 in which the reemployment earnings exceed the amount above,
14 for the balance of the calendar year. The retirement allowance
15 of the beneficiary shall be reinstated as of January 1 of each
16 year following suspension. The amount that may be earned
17 before suspension shall be increased on January 1 of each year
18 by the ratio of the Consumer Price Index to the Index one year
19 earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

20 ~~The computation of postretirement earnings of a beneficiary~~
21 ~~under this sub subdivision, G.S. 135 3(8)c., who has been~~
22 ~~retired at least six months and has not been employed in any~~
23 ~~capacity, except as a substitute teacher or a part time tutor, with~~
24 ~~a public school for at least six months immediately preceding~~
25 ~~the effective date of reemployment, shall not include earnings~~
26 ~~while the beneficiary is employed to teach on a substitute,~~
27 ~~interim, or permanent basis in a public school. The Department~~
28 ~~of Public Instruction shall certify to the Retirement System that~~
29 ~~a beneficiary is employed to teach by a local school~~
30 ~~administrative unit under the provisions of this sub subdivision~~
31 ~~and as a retired teacher as the term is defined under the~~
32 ~~provisions of G.S. 115C 325(a)(5a).~~

33 ~~Beneficiaries employed under this sub subdivision are not~~
34 ~~entitled to any benefits otherwise provided under this Chapter~~
35 ~~as a result of this period of employment."~~

36 **SECTION 3.** G.S. 115C-325(a)(5a) is repealed.

37 **SECTION 4.** This act becomes effective January 1, 2004, and applies to
38 persons eligible to retire from the Teachers' and State Employees' Retirement System on
39 or after that date.