

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 804

Short Title: Retirement Technical Changes. (Public)

Sponsors: Senators Stevens; Apodaca, Bingham, Hise, and Meredith.

Referred to: Pensions & Retirement and Aging.

May 17, 2012

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO STATUTES
3 AFFECTING THE STATE RETIREMENT SYSTEMS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 128-24 reads as rewritten:

6 "**§ 128-24. Membership.**

7 The membership of this Retirement System shall be composed as follows:

8 ...

9 (2) All persons who are employees of a participating county, city, or town
10 except those who shall notify the Board of Trustees in writing, on or before
11 ~~90~~ 30 days following the date of participation in the Retirement System by
12 such county, city or town: Provided, further, that employees of county social
13 services and health departments whose compensation is derived from
14 federal, State, and local funds may be members of the North Carolina Local
15 Governmental Employees' Retirement System to the full extent of their
16 compensation. Any member on or after July 1, 1969, may deposit in the
17 annuity savings fund by a single payment the contributions plus interest
18 which would have been credited to his account had he not signed a
19 nonelection blank, and be entitled to such membership service credits and
20 any prior service credits which became void upon execution of such
21 nonelection blank; provided that the employer will pay the appropriate
22 matching contributions.

23"

24 **SECTION 2.(a)** G.S. 128-28(m) reads as rewritten:

25 "(m) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be
26 the technical adviser of the Board of Trustees on matters regarding the operation of the funds
27 created by the provisions of this Chapter and shall perform such other duties as are required in
28 connection therewith. For purposes of the annual valuation of System assets, the experience
29 studies, and all other actuarial calculations required by this Chapter, all the assumptions used
30 by the System's actuary, including mortality tables, interest rates, annuity factors, and employer
31 contribution rates, shall be set out in the actuary's periodic reports or other materials provided
32 to the Board of Trustees. These materials, once accepted by the Board, shall be considered part
33 of the Plan documentation governing this Retirement System; similarly, the Board's minutes
34 relative to all actuarial assumptions used by the System shall also be considered part of the Plan
35 documentation governing this Retirement System, with the result of precluding any employer



1 discretion in the determination of benefits payable hereunder, consistent with Section
2 401(a)(25) of the Internal Revenue Code."

3 **SECTION 2.(b)** G.S. 135-6(l) reads as rewritten:

4 "(l) Duties of Actuary. – The Board of Trustees shall designate an actuary who shall be
5 the technical adviser of the Board of Trustees on matters regarding the operation of the funds
6 created by the provisions of this Chapter and shall perform such other duties as are required in
7 connection therewith. For purposes of the annual valuation of System assets, the experience
8 studies, and all other actuarial calculations required by this Chapter, all the assumptions used
9 by the System's actuary, including mortality tables, interest rates, annuity factors, and employer
10 contribution rates, shall be set out in the actuary's periodic reports or other materials provided
11 to the Board of Trustees. These materials, once accepted by the Board, shall be considered part
12 of the Plan documentation governing this Retirement System; similarly, the Board's minutes
13 relative to all actuarial assumptions used by the System shall also be considered part of the Plan
14 documentation governing this Retirement System, with the result of precluding any employer
15 discretion in the determination of benefits payable hereunder, consistent with Section
16 401(a)(25) of the Internal Revenue Code."

17 **SECTION 3.(a)** G.S. 128-26(e) reads as rewritten:

18 "(e) Creditable service at retirement on which the retirement allowance of a member
19 shall be based shall consist of the membership service rendered by him since he last became a
20 member, and also if he has a prior service certificate which is in full force and effect, the
21 amount of the service certified on his prior service certificate; and if he has sick leave standing
22 to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or
23 portion thereof, but not less than one hour; sick leave shall not be counted in computing
24 creditable service for the purpose of determining eligibility for disability retirement or for a
25 vested deferred allowance. Creditable service for unused sick leave shall be allowed only for
26 sick leave accrued monthly during employment under a duly adopted sick leave policy and for
27 which the member may be able to take credits and be paid for sick leave without restriction.
28 However, in no instance shall unused sick leave be credited to a member's account at retirement
29 if the member's last day of actual service is more than 365 days prior to the effective date of the
30 member's retirement.

31 On and after July 1, 1971, a member whose account was closed on account of absence from
32 service under the provisions of G.S. 128-24(1a) and who subsequently returns to service for a
33 period of five years, may thereafter repay the amount withdrawn plus regular interest thereon
34 from the date of withdrawal through the year of repayment and thereby increase his creditable
35 service by the amount of creditable service lost when this account was closed.

36 On and after July 1, 1973, a member whose account in the Teachers' and State Employees'
37 Retirement System was closed on account of absence from service under the provisions of
38 G.S. 135-3(3) and who subsequently became or becomes a member of this System with credit
39 for five years of service, may thereafter repay in a lump sum the amount withdrawn from the
40 Teachers' and State Employees' Retirement System plus regular interest thereon from the date
41 of withdrawal through the year of repayment and thereby increase his creditable service in this
42 System by the amount of creditable service lost when his account was closed.

43 Notwithstanding any other provision of this Chapter, any member who entered service or
44 was restored to service prior to July 1, 1982, and was excluded from membership service solely
45 on account of having attained the age of 62 years, in accordance with former G.S. 128-24(3a),
46 may purchase membership service credits for such excluded service by making a lump-sum
47 payment equal to the contributions that would have been deducted pursuant to G.S. 128-30(b)
48 had he been a member of the Retirement System, increased by interest calculated at a rate of
49 seven percent (7%) per annum. ~~Creditable service for unused sick leave shall be allowed only~~
50 ~~for sick leave accrued monthly during employment under a duly adopted sick leave policy and~~
51 ~~for which the member may be able to take credits and be paid for sick leave without restriction.~~

1 On and after January 1, 1986, the creditable service of a member who was a member of the
2 Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement
3 officers employed by participating employers from that System to this Retirement System and
4 whose accumulated contributions are transferred from that System to this Retirement System,
5 includes service that was creditable in the Law Enforcement Officers' Retirement System; and
6 membership service with that System is membership service with this Retirement System;
7 provided, notwithstanding any provisions of this Article to the contrary, any inchoate or
8 accrued rights of such a member to purchase creditable service for military service, withdrawn
9 service and prior service under the rules and regulations of the Law Enforcement Officers'
10 Retirement System may not be diminished and may be purchased as creditable service with this
11 Retirement System under the same conditions that would have otherwise applied."

12 **SECTION 3.(b)** G.S. 135-4(c) reads as rewritten:

13 "(c) Subject to the above restrictions and to such other rules and regulations as the Board
14 of Trustees may adopt, the Board of Trustees shall verify, as soon as practicable after the filing
15 of such statements of service, the service therein claimed.

16 In lieu of a determination of the actual compensation of the members that was received
17 during such period of prior service the Board of Trustees may use for the purpose of this
18 Chapter the compensation rates which will be determined by the average salary of the members
19 for five years immediately preceding the date this System became operative as the records
20 show the member actually received. ~~Creditable service for unused sick leave shall be allowed
21 only for sick leave accrued monthly during employment under a duly adopted sick leave policy
22 and for which the member may be able to take credits and be paid for sick leave without
23 restriction."~~

24 **SECTION 3.(c)** G.S. 135-4(e) reads as rewritten:

25 "(e) Creditable service at retirement on which the retirement allowance of a member
26 shall be based shall consist of the membership service rendered by him since he last became a
27 member, and also if he has a prior service certificate which is in full force and effect, the
28 amount of service certified on his prior service certificate; and if he has sick leave standing to
29 his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or
30 portion thereof, but not less than one hour; sick leave shall not be counted in computing
31 creditable service for the purpose of determining eligibility for disability retirement or for a
32 vested deferred allowance. Creditable service for unused sick leave shall be allowed only for
33 sick leave accrued monthly during employment under a duly adopted sick leave policy and for
34 which the member may be able to take credits and be paid for sick leave without restriction.
35 However, in no instance shall unused sick leave be credited to a member's account at retirement
36 if the member's last day of actual service is more than five years prior to the effective date of
37 the member's retirement. Further, any agency with a sick leave policy that is more generous
38 than that of all State agencies subject to the rules of the Office of State Personnel shall
39 proportionately adjust each of its retiring employees' sick leave balance to the balance that
40 employee would have had under the rules of the Office of State Personnel.

41 On and after July 1, 1971, a member whose account was closed on account of absence from
42 service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a
43 period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular
44 interest thereon from the date of withdrawal through the year of repayment and thereby
45 increase his creditable service by the amount of creditable service lost when his account was
46 closed.

47 On and after July 1, 1973, a member whose account in the North Carolina Local
48 Governmental Employees' Retirement System was closed on account of absence from service
49 under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member
50 of this System with credit for five years of service, may thereafter repay in a lump sum the
51 amount withdrawn from the North Carolina Local Governmental Employees' Retirement

1 System plus regular interest thereon from the date of withdrawal through the year of repayment
2 and thereby increase his creditable service in this System by the amount of creditable service
3 lost when his account was closed.

4 On or after July 1, 1979, a member who has obtained 60 months of aggregate service, or
5 five years of membership service, as an employee of the North Carolina General Assembly,
6 except legislators, participants in the Legislative Intern Program and pages, may make a lump
7 sum payment together with interest, and an administrative fee for such service, to the Teachers'
8 and State Employees' Retirement System of an amount equal to what he would have
9 contributed had he been a member on his first day of employment.

10 On and after January 1, 1985, the creditable service of a member who was a member of the
11 Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement
12 officers employed by the State from that System to this Retirement System and whose
13 accumulated contributions are transferred from that System to this Retirement System, shall
14 include service that was creditable in the Law-Enforcement Officers' Retirement System; and
15 membership service with that System shall be membership service with this Retirement
16 System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or
17 accrued rights of such a member to purchase creditable service for military service, withdrawn
18 service and prior service under the rules and regulations of the Law-Enforcement Officers'
19 Retirement System shall not be diminished and may be purchased as creditable service with
20 this Retirement System under the same conditions which would have otherwise applied."

21 **SECTION 4.(a)** G.S. 120-4.31 reads as rewritten:

22 "**§ 120-4.31. Internal Revenue Code compliance.**

23 (a) Notwithstanding any other provisions of law to the contrary, compensation for any
24 calendar year after 1988 in which employee or employer contributions are made and for which
25 annual compensation is used for computing any benefit under this Article shall not exceed the
26 higher of two hundred thousand dollars (\$200,000) or the amount determined by the
27 Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the
28 imposition of the limitation shall not reduce a member's benefit below the amount determined
29 as of December 31, 1988.

30 Effective January 1, 1996, the annual compensation of a member taken into account for
31 determining all benefits provided under this Article shall not exceed one hundred fifty thousand
32 dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code
33 and any regulations issued under the Code. However, with respect to a person who became a
34 member of the Retirement System prior to January 1, 1996, the imposition of this limitation on
35 compensation shall not reduce the amount of compensation which may be taken into account
36 for determining the benefits of that member under this Article below the amount of
37 compensation which would have been recognized under the provisions of this Article in effect
38 on July 1, 1993.

39 Effective January 1, 2002, the annual compensation of a person, who became a member of
40 the Retirement System on or after January 1, 1996, taken into account for determining all
41 benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed
42 two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue
43 Code or determined by the Commissioner of Internal Revenue as the limitation for calendar
44 years after 2002.

45 All the provisions in this subsection have been enacted to make clear that the Plan shall not
46 base contributions or Plan benefits on annual compensation in excess of the limits prescribed
47 by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to
48 certain federal grandfathering rules.

49 (b) Notwithstanding any other provisions of law to the contrary, the annual benefit
50 payable on behalf of a member shall, if necessary, be reduced to the extent required by Section
51 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e)

1 of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate
2 pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined
3 contributions plan that is required to be taken into account for the purposes of the limitation
4 contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this
5 Article shall be reduced to the extent required by Section 415(e) prior to making any reduction
6 under the defined contribution plan provided by the employer. However, with respect to a
7 member who has benefits accrued under this Article but whose benefit had not commenced as
8 of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal
9 Revenue Code shall not be applied to such member for calendar years commencing on or after
10 January 1, 2000.

11 (c) ~~On and after January 1, 1989, the retirement allowance of a member who has~~
12 ~~terminated employment shall begin no later than the later of April 1 of the calendar year~~
13 ~~following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar~~
14 ~~year following the calendar year in which the member terminates employment. September 8,~~
15 2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue
16 Code are applicable, with respect to any member who has terminated employment, the Plan
17 shall comply with federal income tax minimum distribution rules by applying a reasonable and
18 good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.

19 (d) ~~This subsection applies to distributions made on or after January 1, 1993.~~
20 Notwithstanding and rollovers from the Plan. The Plan does not have mandatory distributions
21 within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to
22 distributions from the Plan and notwithstanding any other provision of the Plan to the contrary
23 that would otherwise limit a distributee's election under this Article, a distributee (including,
24 after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct
25 rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law)
26 may elect, at the time and in the manner prescribed by the Plan administrator, to have any
27 portion of an eligible rollover distribution paid directly to an eligible retirement plan specified
28 by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan"
29 means an individual retirement account described in Section 408(a) of the Code, an individual
30 retirement annuity described in Section 408(b) of the Code, an annuity plan described in
31 Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust
32 described in Section 401(a) of the Code, that accepts the distributee's eligible rollover
33 distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an
34 annuity contract described in Section 403(b) of the Code and an eligible plan under Section
35 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency
36 or instrumentality of a state or political subdivision of a state and which agrees to separately
37 account for amounts transferred into that plan from this Plan. As used in this subsection, a
38 "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the
39 distributee. Provided, an eligible rollover distribution is any distribution of all or any portion of
40 the balance to the credit of the distributee, except that an eligible rollover distribution does shall
41 not include: any distribution that is one of a series of substantially equal periodic payments (not
42 less frequently than annually) made for the life (or life expectancy) of the distributee or the
43 joint lives (or joint life expectancies) of the distributee and the distributee's designated
44 beneficiary, or for a specified period of 10 years or more; any distribution to the extent such
45 distribution is required under section 401(a)(9) of the Code; and the portion of any distribution
46 that is not includible in gross income (determined without regard to the exclusion for net
47 realized appreciation with respect to employer securities). Effective as of January 1, 2002, and
48 notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the
49 preceding sentence, a portion of a distribution shall not fail to be an eligible rollover
50 distribution merely because the portion consists of after-tax employee contributions that are not
51 includible in gross income. However, such That portion may be transferred only transferred,

1 pursuant to applicable federal law, to an individual retirement account or annuity described in
2 Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a qualified defined
3 contribution plan described in Section ~~401(a) or 403(a)~~ 401(a), 403(a), or 403(b) of the Code
4 that agrees to separately account for amounts so transferred, including separately accounting
5 for the portion of such distribution which is includible in gross income and the portion of such
6 distribution which is not so includible. ~~Provided, an eligible retirement plan is an individual~~
7 ~~retirement account described in section 408(a) of the Code, an individual retirement annuity~~
8 ~~described in section 408(b) of the Code, an annuity plan described in section 403(a) of the~~
9 ~~Code, or a qualified trust described in section 401(a) of the Code, that accepts the distributee's~~
10 ~~eligible rollover distribution. Effective on and after January 1, 2002, an eligible retirement plan~~
11 ~~shall also mean an annuity contract described in Section 403(b) of the Code and an eligible plan~~
12 ~~under Section 457(b) of the Code which is maintained by a state, political subdivision of a~~
13 ~~state, or any agency or instrumentality of a state or political subdivision of a state and which~~
14 ~~agrees to separately account for amounts transferred into such plan from this Plan. The~~
15 ~~definition of eligible retirement plan shall also apply in the case of a distribution to surviving~~
16 ~~spouse, or to a spouse or former spouse who is the alternate payee under a qualified domestic~~
17 ~~relations order, as defined in Section 414(p) of the Internal Revenue Code, or a court-ordered~~
18 ~~equitable distribution of marital property, as provided under G.S. 50-30. G.S. 50-20.1.~~
19 ~~Provided, a distributee includes an employee or former employee. Provided further, a direct~~
20 ~~rollover is a payment by the Plan to the eligible retirement plan specified by the distributee.~~
21 ~~Effective on and after January 1, 2007, notwithstanding any other provision of this subsection,~~
22 ~~a nonspouse beneficiary of a deceased member may elect, at the time and in the manner~~
23 ~~prescribed by the administrator of the Board of Trustees of this Retirement System, to directly~~
24 ~~roll over any portion of the beneficiary's distribution from the Retirement System; however,~~
25 ~~such rollover shall conform with the provisions of section 402(c)(11) of the Code."~~

26 **SECTION 4.(b)** G.S. 128-38.2 reads as rewritten:

27 **"§ 128-38.2. Internal Revenue Code compliance.**

28 (a) Notwithstanding any other provisions of law to the contrary, compensation for any
29 calendar year after 1988 in which employee or employer contributions are made and for which
30 annual compensation is used for computing any benefit under this Article shall not exceed the
31 higher of two hundred thousand dollars (\$200,000) or the amount determined by the
32 Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the
33 imposition of the limitation shall not reduce a member's benefit below the amount determined
34 as of December 31, 1988.

35 Effective January 1, 1996, the annual compensation of a member taken into account for
36 determining all benefits provided under this Article shall not exceed one hundred fifty thousand
37 dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code
38 and any regulations issued under the Code. However, with respect to a person who became a
39 member of the Retirement System prior to January 1, 1996, the imposition of this limitation on
40 compensation shall not reduce the amount of compensation which may be taken into account
41 for determining the benefits of that member under this Article below the amount of
42 compensation which would have been recognized under the provisions of this Article in effect
43 on July 1, 1993.

44 Effective January 1, 2002, the annual compensation of a person, who became a member of
45 the Retirement System on or after January 1, 1996, taken into account for determining all
46 benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed
47 two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue
48 Code or determined by the Commissioner of Internal Revenue as the limitation for calendar
49 years after 2002.

50 All the provisions in this subsection have been enacted to make clear that the Plan shall not
51 base contributions or Plan benefits on annual compensation in excess of the limits prescribed

1 by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to
2 certain federal grandfathering rules.

3 (b) Notwithstanding any other provisions of law to the contrary, the annual benefit
4 payable on behalf of a member shall, if necessary, be reduced to the extent required by Section
5 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e)
6 of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate
7 pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined
8 contributions plan that is required to be taken into account for the purposes of the limitation
9 contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this
10 Article shall be reduced to the extent required by Section 415(e) prior to making any reduction
11 under the defined contribution plan provided by the employer. However, with respect to a
12 member who has benefits accrued under this Article but whose benefit had not commenced as
13 of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal
14 Revenue Code shall not be applied to such member for calendar years commencing on or after
15 January 1, 2000.

16 (c) ~~On and after January 1, 1989, the retirement allowance of a member who has~~
17 ~~terminated employment shall begin no later than the later of April 1 of the calendar year~~
18 ~~following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar~~
19 ~~year following the calendar year in which the member terminates employment. September 8,~~
20 ~~2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue~~
21 ~~Code are applicable, with respect to any member who has terminated employment, the Plan~~
22 ~~shall comply with federal income tax minimum distribution rules by applying a reasonable and~~
23 ~~good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.~~

24 (d) ~~This subsection applies to distributions made on or after January 1, 1993.~~
25 ~~Notwithstanding~~ and rollovers from the Plan. The Plan does not have mandatory distributions
26 within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to
27 distributions from the Plan and notwithstanding any other provision of the Plan to the contrary
28 that would otherwise limit a distributee's election under this Article, a distributee (including,
29 after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct
30 rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law)
31 may elect, at the time and in the manner prescribed by the Plan administrator, to have any
32 portion of an eligible rollover distribution paid directly to an eligible retirement plan specified
33 by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan"
34 means an individual retirement account described in Section 408(a) of the Code, an individual
35 retirement annuity described in Section 408(b) of the Code, an annuity plan described in
36 Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust
37 described in Section 401(a) of the Code, that accepts the distributee's eligible rollover
38 distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an
39 annuity contract described in Section 403(b) of the Code and an eligible plan under Section
40 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency
41 or instrumentality of a state or political subdivision of a state and which agrees to separately
42 account for amounts transferred into that plan from this Plan. As used in this subsection, a
43 "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the
44 distributee. Provided, an eligible rollover distribution is any distribution of all or any portion of
45 the balance to the credit of the distributee, except that an eligible rollover distribution ~~does~~ shall
46 not include: any distribution that is one of a series of substantially equal periodic payments (not
47 less frequently than annually) made for the life (or life expectancy) of the distributee or the
48 joint lives (or joint life expectancies) of the distributee and the distributee's designated
49 beneficiary, or for a specified period of 10 years or more; any distribution to the extent such
50 distribution is required under section 401(a)(9) of the Code; and the portion of any distribution
51 that is not includible in gross income (determined without regard to the exclusion for net

1 realized appreciation with respect to employer securities). Effective as of January 1, 2002, and
2 notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the
3 preceding sentence, a portion of a distribution shall not fail to be an eligible rollover
4 distribution merely because the portion consists of after-tax employee contributions which are
5 not includible in gross income. However, such That portion may be transferred only
6 transferred, pursuant to applicable federal law, to an individual retirement account or annuity
7 described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a
8 qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or
9 403(b) of the Code that agrees to separately account for amounts so transferred, including
10 separately accounting for the portion of such distribution which is includible in gross income
11 and the portion of such distribution which is not so includible. Provided, an eligible retirement
12 plan is an individual retirement account described in section 408(a) of the Code, an individual
13 retirement annuity described in section 408(b) of the Code, an annuity plan described in section
14 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the
15 distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible
16 retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and
17 an eligible plan under Section 457(b) of the Code which is maintained by a state, political
18 subdivision of a state, or any agency or instrumentality of a state or political subdivision of a
19 state and which agrees to separately account for amounts transferred into such plan from this
20 Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to
21 surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified
22 domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or a
23 court-ordered equitable distribution of marital property, as provided under G.S. 50-30-
24 G.S. 50-20.1. Provided, a distributee includes an employee or former employee. Provided
25 further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the
26 distributee. Effective on and after January 1, 2007, notwithstanding any other provision of this
27 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the
28 manner prescribed by the administrator of the Board of Trustees of this Retirement System, to
29 directly roll over any portion of the beneficiary's distribution from the Retirement System;
30 however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

31 **SECTION 4.(c)** G.S. 135-18.7 reads as rewritten:

32 **"§ 135-18.7. Internal Revenue Code compliance.**

33 (a) Notwithstanding any other provisions of law to the contrary, compensation for any
34 calendar year after 1988 in which employee or employer contributions are made and for which
35 annual compensation is used for computing any benefit under this Article shall not exceed the
36 higher of two hundred thousand dollars (\$200,000) or the amount determined by the
37 Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the
38 imposition of the limitation shall not reduce a member's benefit below the amount determined
39 as of December 31, 1988.

40 Effective January 1, 1996, the annual compensation of a member taken into account for
41 determining all benefits provided under this Article shall not exceed one hundred fifty thousand
42 dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code
43 and any regulations issued under the Code. However, with respect to a person who became a
44 member of the Retirement System prior to January 1, 1996, the imposition of this limitation on
45 compensation shall not reduce the amount of compensation which may be taken into account
46 for determining the benefits of that member under this Article below the amount of
47 compensation which would have been recognized under the provisions of this Article in effect
48 on July 1, 1993.

49 Effective January 1, 2002, the annual compensation of a person, who became a member of
50 the Retirement System on or after January 1, 1996, taken into account for determining all
51 benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed

1 two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue
2 Code or determined by the Commissioner of Internal Revenue as the limitation for calendar
3 years after 2002.

4 All the provisions in this subsection have been enacted to make clear that the Plan shall not
5 base contributions or Plan benefits on annual compensation in excess of the limits prescribed
6 by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to
7 certain federal grandfathering rules.

8 (b) Notwithstanding any other provisions of law to the contrary, the annual benefit
9 payable on behalf of a member shall, if necessary, be reduced to the extent required by Section
10 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e)
11 of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate
12 pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined
13 contributions plan that is required to be taken into account for the purposes of the limitation
14 contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this
15 Article shall be reduced to the extent required by Section 415(e) prior to making any reduction
16 under the defined contribution plan provided by the employer. However, with respect to a
17 member who has benefits accrued under this Article but whose benefit had not commenced as
18 of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal
19 Revenue Code shall not be applied to such member for calendar years commencing on or after
20 January 1, 2000.

21 (c) ~~On and after January 1, 1989, the retirement allowance of a member who has~~
22 ~~terminated employment shall begin no later than the later of April 1 of the calendar year~~
23 ~~following the calendar year that the member attains 70 ½ years of age or April 1 of the calendar~~
24 ~~year following the calendar year in which the member terminates employment. September 8,~~
25 ~~2009, and for all Plan years to which the minimum distribution rules of the Internal Revenue~~
26 ~~Code are applicable, with respect to any member who has terminated employment, the Plan~~
27 ~~shall comply with federal income tax minimum distribution rules by applying a reasonable and~~
28 ~~good faith interpretation to Section 401(a)(9) of the Internal Revenue Code.~~

29 (d) This subsection applies to distributions ~~made on or after January 1, 1993.~~
30 ~~Notwithstanding~~ and rollovers from the Plan. The Plan does not have mandatory distributions
31 within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to
32 distributions from the Plan and notwithstanding any other provision of the Plan to the contrary
33 that would otherwise limit a distributee's election under this Article, a distributee (including,
34 after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct
35 rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law)
36 may elect, at the time and in the manner prescribed by the Plan administrator, to have any
37 portion of an eligible rollover distribution paid directly to an eligible retirement plan specified
38 by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan"
39 means an individual retirement account described in Section 408(a) of the Code, an individual
40 retirement annuity described in Section 408(b) of the Code, an annuity plan described in
41 Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust
42 described in Section 401(a) of the Code, that accepts the distributee's eligible rollover
43 distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an
44 annuity contract described in Section 403(b) of the Code and an eligible plan under Section
45 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency
46 or instrumentality of a state or political subdivision of a state and which agrees to separately
47 account for amounts transferred into that plan from this Plan. As used in this subsection, a
48 "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the
49 distributee. Provided, an eligible rollover distribution is any distribution of all or any portion of
50 the balance to the credit of the distributee, except that an eligible rollover distribution ~~does~~ shall
51 not include: any distribution that is one of a series of substantially equal periodic payments (not

1 less frequently than annually) made for the life (or life expectancy) of the distributee or the
2 joint lives (or joint life expectancies) of the distributee and the distributee's designated
3 beneficiary, or for a specified period of 10 years or more; any distribution to the extent such
4 distribution is required under section 401(a)(9) of the Code; and the portion of any distribution
5 that is not includible in gross income (determined without regard to the exclusion for net
6 realized appreciation with respect to employer securities). Effective as of January 1, 2002, and
7 notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the
8 preceding sentence, a portion of a distribution shall not fail to be an eligible rollover
9 distribution merely because the portion consists of after-tax employee contributions which are
10 not includible in gross income. However, such That portion may be transferred only
11 transferred, pursuant to applicable federal law, to an individual retirement account or annuity
12 described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a
13 qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or
14 403(b) of the Code that agrees to separately account for amounts so transferred, including
15 separately accounting for the portion of such distribution which is includible in gross income
16 and the portion of such distribution which is not so includible. Provided, an eligible retirement
17 plan is an individual retirement account described in section 408(a) of the Code, an individual
18 retirement annuity described in section 408(b) of the Code, an annuity plan described in section
19 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the
20 distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible
21 retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and
22 an eligible plan under Section 457(b) of the Code which is maintained by a state, political
23 subdivision of a state, or any agency or instrumentality of a state or political subdivision of a
24 state and which agrees to separately account for amounts transferred into such plan from this
25 Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to
26 surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified
27 domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or a
28 court-ordered equitable distribution of marital property, as provided under G.S. 50-30-
29 G.S. 50-20.1. ~~Provided, a distributee includes an employee or former employee. Provided~~
30 ~~further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the~~
31 ~~distributee.~~ Effective on and after January 1, 2007, notwithstanding any other provision of this
32 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the
33 manner prescribed by the administrator of the Board of Trustees of this Retirement System, to
34 directly roll over any portion of the beneficiary's distribution from the Retirement System;
35 however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

36 **SECTION 4.(d)** G.S. 135-74 reads as rewritten:

37 **"§ 135-74. Internal Revenue Code compliance.**

38 (a) Notwithstanding any other provisions of law to the contrary, compensation for any
39 calendar year after 1988 in which employee or employer contributions are made and for which
40 annual compensation is used for computing any benefit under this Article shall not exceed the
41 higher of two hundred thousand dollars (\$200,000) or the amount determined by the
42 Commissioner of Internal Revenue as the limitation for calendar years after 1989; provided the
43 imposition of the limitation shall not reduce a member's benefit below the amount determined
44 as of December 31, 1988.

45 All the provisions in this subsection have been enacted to make clear that the Plan shall not
46 base contributions or Plan benefits on annual compensation in excess of the limits prescribed
47 by Section 401(a)(17) of the Internal Revenue Code, as adjusted from time to time, subject to
48 certain federal grandfathering rules.

49 Effective January 1, 1996, the annual compensation of a member taken into account for
50 determining all benefits provided under this Article shall not exceed one hundred fifty thousand
51 dollars (\$150,000), as adjusted pursuant to section 401(a)(17)(B) of the Internal Revenue Code

1 and any regulations issued under the Code. However, with respect to a person who became a
2 member of the Retirement System prior to January 1, 1996, the imposition of this limitation on
3 compensation shall not reduce the amount of compensation which may be taken into account
4 for determining the benefits of that member under this Article below the amount of
5 compensation which would have been recognized under the provisions of this Article in effect
6 on July 1, 1993.

7 Effective January 1, 2002, the annual compensation of a person, who became a member of
8 the Retirement System on or after January 1, 1996, taken into account for determining all
9 benefits accruing under this Article for any plan year after December 31, 2001, shall not exceed
10 two hundred thousand dollars (\$200,000) or the amount otherwise set by the Internal Revenue
11 Code or determined by the Commissioner of Internal Revenue as the limitation for calendar
12 years after 2002.

13 (b) Notwithstanding any other provisions of law to the contrary, the annual benefit
14 payable on behalf of a member shall, if necessary, be reduced to the extent required by Section
15 415(b) and with respect to calendar years commencing prior to January 1, 2000, Section 415(e)
16 of the Internal Revenue Code, as adjusted by the Secretary of the Treasury or his delegate
17 pursuant to Section 415(d) of the Code. If a member is a participant under any qualified defined
18 contributions plan that is required to be taken into account for the purposes of the limitation
19 contained in Section 415 of the Internal Revenue Code, the annual benefit payable under this
20 Article shall be reduced to the extent required by Section 415(e) prior to making any reduction
21 under the defined contribution plan provided by the employer. However, with respect to a
22 member who has benefits accrued under this Article but whose benefit had not commenced as
23 of December 31, 1999, the combined plan limitation contained in Section 415(e) of the Internal
24 Revenue Code shall not be applied to such member for calendar years commencing on or after
25 January 1, 2000.

26 (c) ~~On and after January 1, 1989, the retirement allowance of a member who has~~
27 ~~terminated employment shall begin no later than the later of April 1 of the calendar year~~
28 ~~following the calendar year that the member attains 70 1/2 years of age or April 1 of the~~
29 ~~calendar year following the calendar year in which the member terminates employment.~~
30 September 8, 2009, and for all Plan years to which the minimum distribution rules of the
31 Internal Revenue Code are applicable, with respect to any member who has terminated
32 employment, the Plan shall comply with federal income tax minimum distribution rules by
33 applying a reasonable and good faith interpretation to Section 401(a)(9) of the Internal Revenue
34 Code.

35 (d) This subsection applies to distributions ~~made on or after January 1, 1993.~~
36 ~~Notwithstanding~~ and rollovers from the Plan. The Plan does not have mandatory distributions
37 within the meaning of Section 401(a)(31) of the Internal Revenue Code. With respect to
38 distributions from the Plan and notwithstanding any other provision of the Plan to the contrary
39 that would otherwise limit a distributee's election under this Article, a distributee (including,
40 after December 31, 2006, a non-spouse beneficiary if that non-spouse beneficiary elects a direct
41 rollover only to an inherited traditional or Roth IRA as permitted under applicable federal law)
42 may elect, at the time and in the manner prescribed by the Plan administrator, to have any
43 portion of an eligible rollover distribution paid directly to an eligible retirement plan specified
44 by the distributee in a direct rollover. As used in this subsection, an "eligible retirement plan"
45 means an individual retirement account described in Section 408(a) of the Code, an individual
46 retirement annuity described in Section 408(b) of the Code, an annuity plan described in
47 Section 403(a) of the Code, on and after January 1, 2009, a Roth IRA, or a qualified trust
48 described in Section 401(a) of the Code, that accepts the distributee's eligible rollover
49 distribution. Effective on and after January 1, 2002, an eligible retirement plan also means an
50 annuity contract described in Section 403(b) of the Code and an eligible plan under Section
51 457(b) of the Code that is maintained by a state, political subdivision of a state, or any agency

1 or instrumentality of a state or political subdivision of a state and which agrees to separately
2 account for amounts transferred into that plan from this Plan. As used in this subsection, a
3 "direct rollover" is a payment by the Plan to the eligible retirement plan specified by the
4 distributee. Provided, an eligible rollover distribution is any distribution of all or any portion of
5 the balance to the credit of the distributee, except that an eligible rollover distribution does shall
6 not include: any distribution that is one of a series of substantially equal periodic payments (not
7 less frequently than annually) made for the life (or life expectancy) of the distributee or the
8 joint lives (or joint life expectancies) of the distributee and the distributee's designated
9 beneficiary, or for a specified period of 10 years or more; any distribution to the extent such
10 distribution is required under section 401(a)(9) of the Code; and the portion of any distribution
11 that is not includible in gross income (determined without regard to the exclusion for net
12 realized appreciation with respect to employer securities). Effective as of January 1, 2002, and
13 notwithstanding the exclusion of any after-tax portion from such a rollover distribution in the
14 preceding sentence, a portion of a distribution shall not fail to be an eligible rollover
15 distribution merely because the portion consists of after-tax employee contributions which are
16 not includible in gross income. However, such That portion may be transferred only
17 transferred, pursuant to applicable federal law, to an individual retirement account or annuity
18 described in Section 408(a) or (b) of the Code, to a qualified defined benefit plan, or to a
19 qualified defined contribution plan described in Section 401(a) or 403(a) 401(a), 403(a), or
20 403(b) of the Code that agrees to separately account for amounts so transferred, including
21 separately accounting for the portion of such distribution which is includible in gross income
22 and the portion of such distribution which is not so includible. Provided, an eligible retirement
23 plan is an individual retirement account described in section 408(a) of the Code, an individual
24 retirement annuity described in section 408(b) of the Code, an annuity plan described in section
25 403(a) of the Code, or a qualified trust described in section 401(a) of the Code, that accepts the
26 distributee's eligible rollover distribution. Effective on and after January 1, 2002, an eligible
27 retirement plan shall also mean an annuity contract described in Section 403(b) of the Code and
28 an eligible plan under Section 457(b) of the Code which is maintained by a state, political
29 subdivision of a state, or any agency or instrumentality of a state or political subdivision of a
30 state and which agrees to separately account for amounts transferred into such plan from this
31 Plan. The definition of eligible retirement plan shall also apply in the case of a distribution to
32 surviving spouse, or to a spouse or former spouse who is the alternate payee under a qualified
33 domestic relations order, as defined in Section 414(p) of the Internal Revenue Code, or a
34 court-ordered equitable distribution of marital property, as provided under G.S. 50-30-
35 G.S. 50-20.1. Provided, a distributee includes an employee or former employee. Provided
36 further, a direct rollover is a payment by the Plan to the eligible retirement plan specified by the
37 distributee. Effective on and after January 1, 2007, notwithstanding any other provision of this
38 subsection, a nonspouse beneficiary of a deceased member may elect, at the time and in the
39 manner prescribed by the administrator of the Board of Trustees of this Retirement System, to
40 directly roll over any portion of the beneficiary's distribution from the Retirement System;
41 however, such rollover shall conform with the provisions of section 402(c)(11) of the Code."

42 **SECTION 5.** G.S. 120-4.28 reads as rewritten:

43 **"§ 120-4.28. Survivor's alternate benefit.**

44 The designated beneficiary of a member who dies in service before retirement but after age
45 60 and after completing five years of creditable service or after completing 12 years of
46 creditable service is entitled to Option 2 prescribed by G.S. 120-4.26.

47 In the event that a retirement allowance becomes payable to the one and only one
48 beneficiary designated to receive a return of accumulated contributions pursuant to this
49 subsection and that beneficiary dies before the total of the retirement allowances paid equals
50 the amount of those accumulated contributions over the total of the retirement allowances paid
51 to the beneficiary, the allowance shall be paid in a lump sum to the person or persons the

1 member has designated as the contingent beneficiary for return of accumulated contributions, if
2 the person or persons are living at the time the payment falls due, otherwise to the one and only
3 one beneficiary's legal representative."

4 **SECTION 6.** G.S. 135-1(25) reads as rewritten:

5 "(25) "Teacher" shall mean (i) any teacher, helping teacher, teacher in a
6 job-sharing position under G.S. 115C-326.5 except for a beneficiary in that
7 position, librarian, principal, supervisor, superintendent of public schools or
8 any full-time employee, city or county, superintendent of public instruction,
9 or any full-time employee of the Department of Public Instruction, president,
10 dean or teacher, or any full-time employee in any educational institution
11 supported by and under the control of the ~~State~~; State; (ii) who works at least
12 30 or more hours per week for at least nine or more months per calendar
13 year; Provided, that the term "teacher" shall not include any part-time,
14 temporary, or substitute teacher or employee except for a teacher in a
15 job-sharing position, and shall not include those participating in an optional
16 retirement program provided for in G.S. 135-5.1 or G.S. 135-5.4. In all cases
17 of doubt, the Board of Trustees, hereinbefore defined, shall determine
18 whether any person is a teacher as defined in this Chapter. On and after
19 August 1, 2001, a person who is a nonimmigrant alien and who otherwise
20 meets the requirements of this subdivision shall not be excluded from the
21 definition of "teacher" solely because the person holds a temporary or
22 time-limited visa. Notwithstanding the foregoing, the term "teacher" shall
23 not include any nonimmigrant alien employed in elementary or secondary
24 public schools (whether employed in a full-time, part-time, temporary,
25 permanent, or substitute teacher position) and participating in an exchange
26 visitor program designated by the United States Department of State
27 pursuant to 22 C.F.R. Part 62 or by the United States Department of
28 Homeland Security pursuant to 8 C.F.R. Part 214.2(q)."

29 **SECTION 7.(a)** G.S. 120-4.9 reads as rewritten:

30 **"§ 120-4.9. Retirement system established.**

31 A Retirement System is established and placed under the Board of Trustees of the Teachers'
32 and State Employees' Retirement System for administrative purposes. This Retirement System
33 is a governmental plan, within the meaning of Section 414(d) of the Internal Revenue Code.
34 Therefore, the nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not
35 apply.

36 The Retirement System shall have all the power and privileges of a corporation and shall be
37 known as the "Legislative Retirement System of North Carolina." By this name all of its
38 business shall be transacted, all of its funds invested and all of its cash and securities and other
39 property held. All direction and policies concerning the Legislative Retirement System shall be
40 vested in the Legislative Services Commission.

41 Consistent with Section 401(a)(1) of the Internal Revenue Code, all member employee and
42 employer contributions to this Retirement System shall be made to funds held in trust through
43 trust instruments that have the purposes of distributing trust principal and income to retired
44 members and their beneficiaries and of paying other definitely determinable benefits under this
45 Chapter, after meeting the necessary expenses of administering this Retirement System. Neither
46 the trust corpus nor income from this trust can be used for purposes other than the exclusive
47 benefit of members or their beneficiaries, except that employer contributions made to the trust
48 under a good faith mistake of fact may be returned to an employer, where the refund can occur
49 within less than one year after the mistaken contribution was made, consistent with the rule
50 adopted by the Board of Trustees. The Retirement System shall have a consolidated Plan
51 document, consisting of relevant statutory provisions in this Chapter, associated regulations in

1 the North Carolina Administrative Code, substantive and procedural information on the official
2 forms used by the Retirement System, and policies and minutes of the Board of Trustees."

3 **SECTION 7.(b)** G.S. 128-22 reads as rewritten:

4 **"§ 128-22. Name and date of establishment.**

5 A Retirement System is hereby established and placed under the management of the Board
6 of Trustees for the purpose of providing retirement allowances and other benefits under the
7 provisions of this Article for employees of those counties, cities and towns or other eligible
8 employers participating in the said Retirement System. Following the filing of the application
9 as provided in G.S. 128-23(c), the Board shall set a date, effective the first day of a calendar
10 quarter, not more than 90 days thereafter, as of which date participation of the employer may
11 begin, which date shall be known as the date of participation for such employer: Provided, that
12 in the judgment of the Board of Trustees an adequate number of persons have indicated their
13 intention to participate; otherwise at such later date as the Board of Trustees may set.

14 ~~This Retirement System is a governmental plan, within the meaning of Section 414(d) of~~
15 ~~the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and~~
16 ~~401(a)(26) of the Code do not apply. This System shall have the power and privileges of a~~
17 ~~corporation and shall be known as the "North Carolina Local Governmental Employees'~~
18 ~~Retirement System," and by such name all of its business shall be transacted, all of its funds~~
19 ~~invested, and all of its cash and securities and other property held.~~

20 Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from
21 participating employers and participating employees to this Retirement System shall be made to
22 funds held in trust through trust instruments that have the purposes of distributing trust
23 principal and income to retired members and their beneficiaries and of paying other definitely
24 determinable benefits under this Chapter, after meeting the necessary expenses of administering
25 this Retirement System. Neither the trust corpus nor income from this trust can be used for
26 purposes other than the exclusive benefit of members or their beneficiaries, except that
27 employer contributions made to the trust under a good faith mistake of fact may be returned to
28 an employer, where the refund can occur within less than one year after the mistaken
29 contribution was made, consistent with the rule adopted by the Board of Trustees. The
30 Retirement System shall have a consolidated Plan document, consisting of Article V, Section
31 6(2) of the North Carolina Constitution, relevant statutory provisions in this Chapter, associated
32 regulations in the North Carolina Administrative Code, substantive and procedural information
33 on the official forms used by the Retirement System, and policies and minutes of the Board of
34 Trustees."

35 **SECTION 7.(c)** G.S. 135-2 reads as rewritten:

36 **"§ 135-2. Name and date of establishment.**

37 A Retirement System is hereby established and placed under the management of the Board
38 of Trustees for the purpose of providing retirement allowances and other benefits under the
39 provisions of this Chapter for teachers and State employees of the State of North Carolina. The
40 Retirement System so created shall be established as of the first day of July, 1941.

41 ~~This Retirement System is a governmental plan, within the meaning of Section 414(d) of~~
42 ~~the Internal Revenue Code. Therefore, the nondiscrimination rules of Sections 401(a)(5) and~~
43 ~~401(a)(26) of the Code do not apply. This System shall have the power and privileges of a~~
44 ~~corporation and shall be known as the "Teachers' and State Employees' Retirement System of~~
45 ~~North Carolina," and by such name all of its business shall be transacted, all of its funds~~
46 ~~invested, and all of its cash and securities and other property held.~~

47 Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from
48 participating employers and participating employees to this Retirement System shall be made to
49 funds held in trust through trust instruments that have the purposes of distributing trust
50 principal and income to retired members and their beneficiaries and of paying other definitely
51 determinable benefits under this Chapter, after meeting the necessary expenses of administering

1 this Retirement System. Neither the trust corpus nor income from this trust can be used for
2 purposes other than the exclusive benefit of members or their beneficiaries, except that
3 employer contributions made to the trust under a good faith mistake of fact may be returned to
4 an employer, where the refund can occur within less than one year after the mistaken
5 contribution was made, consistent with the rule adopted by the Board of Trustees. The
6 Retirement System shall have a consolidated Plan document, consisting of Article V, Section
7 6(2) of the North Carolina Constitution, relevant statutory provisions in this Chapter; associated
8 regulations in the North Carolina Administrative Code, substantive and procedural information
9 on the official forms used by the Retirement System, and policies and minutes of the Board of
10 Trustees."

11 **SECTION 7.(d)** G.S. 135-54 reads as rewritten:

12 **"§ 135-54. Name and date of establishment.**

13 A Retirement System is hereby established and placed under the management of the Board
14 of Trustees for the purpose of providing retirement allowances and other benefits under the
15 provisions of this Article for justices and judges, district attorneys, public defenders, the
16 Director of Indigent Defense Services, and clerks of superior court of the General Court of
17 Justice of North Carolina, and their survivors. This Retirement System is a governmental plan,
18 within the meaning of Section 414(d) of the Internal Revenue Code. Therefore, the
19 nondiscrimination rules of Sections 401(a)(5) and 401(a)(26) of the Code do not apply. The
20 Retirement System so created shall be established as of January 1, 1974.

21 The Retirement System shall have the power and privileges of a corporation and shall be
22 known as the "Consolidated Judicial Retirement System of North Carolina," and by such name
23 all of its business shall be transacted.

24 Consistent with Section 401(a)(1) of the Internal Revenue Code, all contributions from
25 participating employers and participating employees to this Retirement System shall be made to
26 funds held in trust through trust instruments that have the purposes of distributing trust
27 principal and income to retired members and their beneficiaries and of paying other definitely
28 determinable benefits under this Chapter, after meeting the necessary expenses of administering
29 this Retirement System. Neither the trust corpus nor income from this trust can be used for
30 purposes other than the exclusive benefit of members or their beneficiaries, except that
31 employer contributions made to the trust under a good faith mistake of fact may be returned to
32 an employer, where the refund can occur within less than one year after the mistaken
33 contribution was made, consistent with the rule adopted by the Board of Trustees. The
34 Retirement System shall have a consolidated Plan document, consisting of relevant statutory
35 provisions in this Chapter, associated regulations in the North Carolina Administrative Code,
36 substantive and procedural information on the official forms used by the Retirement System,
37 and policies and minutes of the Board of Trustees."

38 **SECTION 8.** G.S. 135-3(2) and G.S. 135-3(5) are repealed.

39 **SECTION 9.(a)** G.S. 128-28(f) reads as rewritten:

40 "(f) Voting Rights. – Each trustee shall be entitled to one vote in the Board. A majority
41 of affirmative votes in attendance shall be necessary for a decision by the trustees at any
42 meeting of said Board. A vote may only be taken if at least seven members of the Board are in
43 attendance, in person or by telephone, for the meeting at which a vote on a decision is taken."

44 **SECTION 9.(b)** G.S. 135-6 reads as rewritten:

45 "(e) Voting Rights. – Each trustee shall be entitled to one vote in the Board. ~~Four~~
46 ~~affirmative votes shall be necessary for a decision by the trustees at any meeting of said Board.~~
47 A majority of affirmative votes by trustees in attendance shall be necessary for a decision by
48 the trustees at any meeting of the Board. A vote may only be taken if at least seven members of
49 the Board are in attendance, in person or by telephone, for the meeting at which a vote on a
50 decision is taken."

51 **SECTION 10.** G.S. 147-69.2(a) reads as rewritten:

1 "§ 147-69.2. Investments authorized for special funds held by State Treasurer.

2 (a) This section applies to funds held by the State Treasurer to the credit of each of the
3 following:

4 ...

5 (17c) Retiree Health ~~Premium Reserve Account~~ Benefit Fund."

6 **SECTION 11.** This act becomes effective July 1, 2012.