

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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HOUSE BILL 2337

Short Title: Ret. Service/General Assembly.

(Public)

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Sponsors: Representatives Diamont, Decker, P. Wilson; Buchanan, Flaherty, and Bowman.

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Referred to: Pensions and Retirement.

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June 6, 1990

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW MEMBERS OF THE TEACHERS' AND STATE  
2 EMPLOYEES' RETIREMENT SYSTEM AND OF THE LOCAL  
3 GOVERNMENTAL RETIREMENT SYSTEM WHO ARE MEMBERS OF THE  
4 GENERAL ASSEMBLY TO MAKE CONTRIBUTIONS TO THE SYSTEM  
5 WHEN THE GENERAL ASSEMBLY IS IN SESSION.  
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 128-30(b) reads as rewritten:

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

- 13 (1) Prior to July 1, 1951, each participating employer shall cause to be  
14 deducted from the salary of each member of each and every payroll of  
15 such employer for each and every payroll period four per centum (4%)  
16 of his earnable compensation. On and after such date the rate so  
17 deducted shall be five per centum (5%) in the case of a Class A  
18 member or a Class C member, and four per centum (4%) in the case of  
19 a Class B member; provided, however, that with respect to any  
20 member who is covered under the Social Security Act in accordance  
21 with the agreement entered into during 1955 in accordance with the  
22 provisions of Article 2 of Chapter 135 of Volume 3B of the General  
23 Statutes, as amended, such deduction shall, commencing with the first

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

28 Notwithstanding the foregoing, effective July 1, 1965, with respect to the  
29 period of service commencing on July 1, 1965, and ending December  
30 31, 1965, the rates of such deductions shall be four per centum (4%)  
31 of the portion of compensation not in excess of forty-eight hundred  
32 dollars (\$4,800) and six per centum (6%) of the portion of  
33 compensation in excess of forty-eight hundred dollars (\$4,800); and  
34 with respect to the period of service commencing January 1, 1966, and  
35 ending June 30, 1967, the rate of such deduction shall be four per  
36 centum (4%) of the portion of compensation not in excess of fifty-six  
37 hundred dollars (\$5,600) and six per centum (6%) of the portion of  
38 compensation in excess of fifty-six hundred dollars (\$5,600); and with  
39 respect to the period of service commencing July 1, 1967, and ending  
40 June 30, 1976, the rate of such deductions shall be five per centum  
41 (5%) of the portion of compensation not in excess of five thousand six  
42 hundred dollars (\$5,600) and six per centum (6%) of the portion of  
43 compensation in excess of five thousand six hundred dollars (\$5,600).

1           Such rates shall apply uniformly to all members of the Retirement  
2           System, irrespective of class.

3           Notwithstanding the foregoing, effective July 1, 1976, with respect to  
4           compensation paid on and after July 1, 1976, the rate of such  
5           deductions shall be six per centum (6%) of the compensation received  
6           by any member. Such rates shall apply uniformly to all members of the  
7           Retirement System, irrespective of class.

8           (2)    The deductions provided for herein shall be made notwithstanding  
9           that the minimum compensation provided for by law for any member  
10          shall be reduced thereby. Every member shall be deemed to consent  
11          and agree to the deductions made and provided for herein and shall  
12          receipt for his full salary or compensation, and payment of salary or  
13          compensation less said deduction shall be a full and complete  
14          discharge and acquittance of all claims and demands whatsoever for  
15          the services rendered by such person during the period covered by  
16          such payment, except as to the benefits provided under this Article.  
17          The employer shall certify to the Board of Trustees on each and every  
18          payroll or in such other manner as the Board of Trustees may  
19          prescribe, the amounts to be deducted; and each of said amounts shall  
20          be deducted, and when deducted shall be paid into said annuity savings  
21          fund, and shall be credited, together with regular interest thereon to the  
22          individual account of the member from whose compensation said  
23          deduction was made.

24          (3)    The accumulated contributions of a member drawn by him, or paid to  
25          his estate or to his designated beneficiary in event of his death as  
26          provided in this Article, shall be paid from the annuity savings fund.  
27          Upon the retirement of a member his accumulated contributions shall  
28          be transferred from the annuity savings fund to the annuity reserve  
29          fund.

30          (4)    The Board of Trustees may approve the purchase of creditable service  
31          by any member for leaves of absence or for interrupted service to an  
32          employer for the sole purpose of acquiring knowledge, talents, or  
33          abilities and to increase the efficiency of service to the employer. This  
34          approval shall be made prior to the purchase of the creditable service,  
35          is limited to a career total of four years for each member, and may be  
36          obtained in the following manner:

37          a.       Approved leave of absence. – Where the employer grants an  
38          approved leave of absence, a member may make monthly  
39          contributions to the annuity savings fund on the basis of  
40          compensation the member was earning immediately prior to  
41          such leave of absence. The employer shall make monthly  
42          contributions equal to the normal and accrued liability  
43          contribution on such compensation or, in lieu thereof, the  
44          member may pay into the annuity savings fund monthly an

1 amount equal to the employer's normal and accrued liability  
2 contribution when the policy of the employer is not to make  
3 such payment.

4 b. No educational leave policy. – Where the employer has a  
5 policy of not granting educational leaves of absence or the  
6 member has unsuccessfully petitioned for leave of absence and  
7 the member has interrupted service for educational purposes,  
8 the member may make monthly contributions into the annuity  
9 savings fund in an amount equal to the employee contribution  
10 plus the employer normal and accrued liability contribution on  
11 the basis of the compensation the member was earning  
12 immediately prior to the interrupted service.

13 c. Educational program prior to July 1, 1981. –Creditable service  
14 for leaves of absence or interrupted service for educational  
15 purposes prior to July 1, 1981, may be purchased by a member,  
16 before or after retirement, who returned as a contributing  
17 employee or teacher within 12 months after completing the  
18 educational program and completed 10 years of subsequent  
19 membership service, by making a lump sum payment into the  
20 annuity savings fund equal to the full cost of the service credits  
21 calculated on the basis of the assumptions used for purposes of  
22 the actuarial valuation of the system's liabilities and shall take  
23 into account the retirement allowance arising on account of the  
24 additional service credit commencing at the earliest age at  
25 which the member could retire on an unreduced retirement  
26 allowance as determined by the board of trustees upon the  
27 advice of the consulting actuary, plus a fee to be determined by  
28 the board of trustees.

29 Payments required to be made by the member and/or the  
30 employer under subparagraphs a or b are due by the 15th of the  
31 month following the month for which the service credit is  
32 allowed and payments made after the due date shall be assessed  
33 a penalty, in lieu of interest, of one percent (1%) per month or  
34 fraction thereof the payment is made beyond the due date;  
35 provided, that these payments shall be made prior to retirement  
36 and provided further, that if the member did not become a  
37 contributing member within 12 months after completing the  
38 educational program and failed to complete three years of  
39 subsequent membership service, except in the event of death or  
40 disability, any payment made by the member including penalty  
41 shall be refunded with regular interest thereon and the service  
42 credits cancelled prior to or at retirement.

43 (5) Any employee as defined in G.S. 128-21(10) who is also a member of  
44 the General Assembly may make monthly contributions to the annuity

1 savings fund during the periods of time that the General Assembly is  
2 in session. The monthly contributions shall be on the basis of the  
3 compensation the member was earning immediately prior to these  
4 sessions. The employer shall make monthly contributions equal to the  
5 normal and accrued liability contribution on this compensation or, if  
6 the policy of the employer is against making such payments, the  
7 member may pay into the annuity savings fund monthly an additional  
8 amount equal to the employer's normal and accrued liability  
9 contribution.

10 Payments required to be made by the member and/or the employer  
11 are due by the 15th of the month following the month for which the  
12 service credit is allowed and payments made after the due date shall be  
13 assessed a penalty, in lieu of interest, of one percent (1%) per month or  
14 fraction thereof the payment is made beyond the due date; provided,  
15 that these payments shall be made prior to retirement."

16 Sec. 2. G.S. 135-8(b) reads as rewritten:

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

- 21 (1) Prior to the first day of July, 1947, each employer shall cause to be  
22 deducted from the salary of each member on each and every payroll of  
23 such employer for each and every payroll period four per centum (4%)  
24 of his actual compensation; and the employer also shall deduct four per  
25 centum (4%) of any compensation received by any member for  
26 teaching in public schools, or in any of the institutions, agencies or  
27 departments of the State, from salaries other than the appropriations  
28 from the State of North Carolina. On and after such date the rate so  
29 deducted shall be five per centum (5%) of actual compensation except  
30 that, with respect to each member who is eligible for coverage under  
31 the Social Security Act in accordance with the agreement entered into  
32 during 1955 in accordance with the provisions of Article 2 of Chapter  
33 135 of Volume 3B of the General Statutes, as amended, and with  
34 respect to members covered under G.S. 135-27, with such coverage  
35 retroactive to January 1, 1955, such deduction shall, commencing with  
36 the first day of the period of service with respect to which such  
37 agreement is effective, be at the rate of three per centum (3%) of the  
38 part of his actual compensation not in excess of the amount taxable to  
39 him under the Federal Insurance Contributions Act as from time to  
40 time in effect plus five per centum (5%) of the part of his earnable  
41 compensation not so taxable; provided that in the case of any member  
42 so eligible and receiving compensation from two or more employers  
43 such deductions may be adjusted under such rules as the Board of  
44 Trustees may establish so as to be as nearly equivalent as practicable

1 to the deductions which would have been made had the member  
2 received all of such compensation from one employer.  
3 Notwithstanding the foregoing, the Board of Trustees may in its  
4 discretion cause such portion as it may determine of deductions made  
5 between January 1, 1955, and December 1, 1955, to be transferred into  
6 the contribution fund established under G.S. 135-24; such amounts so  
7 transferred shall in that event be deemed to be taxes contributed by  
8 employees as required under Article 2, Chapter 135 of Volume 3B of  
9 the General Statutes as amended, and shall be in lieu of contributions  
10 otherwise payable in the same amount as so required.

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

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

- 35 (2) The deductions provided for herein shall be made notwithstanding  
36 that the minimum compensation provided for by law for any member  
37 shall be reduced thereby. Every member shall be deemed to consent  
38 and agree to the deductions made and provided for herein and shall  
39 receipt for his full salary or compensation, and payment of salary or  
40 compensation less said deduction shall be a full and complete  
41 discharge and acquittance of all claims and demands whatsoever for  
42 the services rendered by such person during the period covered by  
43 such payment, except as to the benefits provided under this Chapter.  
44 The employer shall certify to the Board of Trustees on each and every

1 payroll or in such other manner as the Board of Trustees may  
2 prescribe, the amounts to be deducted; and each of said amounts shall  
3 be deducted, and when deducted shall be paid into said annuity savings  
4 fund, and shall be credited, together with regular interest thereon, to  
5 the individual account of the member from whose compensation said  
6 deduction was made.

7 (3) Each board of education of each county and each board of education  
8 of each city, and the employer in any department, agency or institution  
9 of the State, in which any teacher receives compensation from sources  
10 other than appropriations of the State of North Carolina shall deduct  
11 from the salaries of these teachers paid from sources other than State  
12 appropriations an amount equal to that deducted from the salaries of  
13 the teachers whose salaries are paid from State funds, and remit this  
14 amount to the State Retirement System. City boards of education and  
15 county boards of education in each and every county and city which  
16 has employees compensated from other than the State appropriation  
17 shall pay to the State Retirement System the same per centum of the  
18 compensation that the State of North Carolina pays and shall transmit  
19 same to the State Retirement System monthly: Provided, that for the  
20 purpose of enabling the boards of education to make such payment, the  
21 tax-levying authorities are hereby authorized, empowered and directed  
22 to provide the necessary funds therefor. In case the salary is paid in  
23 part from State funds and in part from local funds, the local authorities  
24 shall not be relieved of providing and remitting the same per centum of  
25 the salary paid from local funds as is paid from State funds. In case the  
26 entire salary of any teacher, as defined in this Chapter, is paid from  
27 county or local funds, the county or city paying such salary shall  
28 provide and remit to the Retirement System the same per centum that  
29 would be required if the salary were provided by the State of North  
30 Carolina.

31 (4) In addition to contributions deducted from compensation as  
32 hereinbefore provided, subject to the approval of the Board of  
33 Trustees, any member may redeposit in the annuity savings fund by a  
34 single payment an amount equal to the total amount which he  
35 previously withdrew therefrom, as provided in this Chapter. Such  
36 amounts so redeposited shall become a part of his accumulated  
37 contributions as if such amounts had initially been contributed within  
38 the calendar year of such redeposit. In no event, however, shall any  
39 member be permitted to redeposit any amount withdrawn after July 1,  
40 1959, except as provided for in G.S. 135-4(e).

41 (5) The Board of Trustees may approve the purchase of creditable service  
42 by any member for leaves of absence or for interrupted service to an  
43 employer for the sole purpose of acquiring knowledge, talents, or  
44 abilities and to increase the efficiency of service to the employer. This

1 approval shall be made prior to the purchase of the creditable service,  
2 is limited to a career total of four years for each member, and may be  
3 obtained in the following manner:

4 a. Approved leave of absence. – Where the employer grants an  
5 approved leave of absence, a member may make monthly  
6 contributions to the annuity savings fund on the basis of  
7 compensation the member was earning immediately prior to  
8 such leave of absence. The employer shall make monthly  
9 contributions equal to the normal and accrued liability  
10 contribution on such compensation or, in lieu thereof, the  
11 member may pay into the annuity savings fund monthly an  
12 amount equal to the employer's normal and accrued liability  
13 contribution when the policy of the employer is not to make  
14 such payment.

15 b. No educational leave policy. – Where the employer has a  
16 policy of not granting educational leaves of absence or the  
17 member has unsuccessfully petitioned for leave of absence and  
18 the member has interrupted service for educational purposes,  
19 the member may make monthly contributions into the annuity  
20 savings fund in an amount equal to the employee contribution  
21 plus the employer normal and accrued liability contribution on  
22 the basis of the compensation the member was earning  
23 immediately prior to the interrupted service.

24 c. Educational program prior to July 1, 1981. –Creditable service  
25 for leaves of absence or interrupted service for educational  
26 purposes prior to July 1, 1981, may be purchased by a member,  
27 before or after retirement, who returned as a contributing  
28 employee or teacher within 12 months after completing the  
29 educational program and completed 10 years of subsequent  
30 membership service, by making a lump sum payment into the  
31 annuity savings fund equal to the full cost of the service credits  
32 calculated on the basis of the assumptions used for purposes of  
33 the actuarial valuation of the system's liabilities and shall take  
34 into account the retirement allowance arising on account of the  
35 additional service credit commencing at the earliest age at  
36 which the member could retire on an unreduced retirement  
37 allowance as determined by the Board of Trustees upon the  
38 advice of the consulting actuary, plus a fee to be determined by  
39 the Board of Trustees.

40 Payments required to be made by the member and/or the  
41 employer under subparagraphs a or b are due by the 15th of the  
42 month following the month for which the service credit is  
43 allowed and payments made after the due date shall be assessed  
44 a penalty, in lieu of interest, of one percent (1%) per month or



1 fraction thereof the payment is made beyond the due date;  
2 provided, that these payments shall be made prior to retirement  
3 and provided further, that if the member did not become a  
4 contributing member within 12 months after completing the  
5 educational program and failed to complete three years of  
6 subsequent membership service, except in the event of death or  
7 disability, any payment made by the member including penalty  
8 shall be refunded with regular interest thereon and the service  
9 credits cancelled prior to or at retirement.

10 (6) The contributions of a member, and such interest as may be allowed  
11 thereon, paid upon his death or withdrawn by him as provided in this  
12 Chapter, shall be paid from the annuity savings fund, and any balance  
13 of the accumulated contributions of such a member shall be transferred  
14 to the pension accumulation fund.

15 (7) Any employee or teacher, as defined in G.S. 135-1(10) or G.S. 135-  
16 1(25), who is also a member of the General Assembly may make  
17 monthly contributions to the annuity savings fund during the periods  
18 of time that the General Assembly is in session. The monthly  
19 contributions shall be on the basis of the compensation the member  
20 was earning immediately prior to these sessions. The employer shall  
21 make monthly contributions equal to the normal and accrued liability  
22 contribution on this compensation or, if the policy of the employer is  
23 against making such payments, the member may pay into the annuity  
24 savings fund monthly an additional amount equal to the employer's  
25 normal and accrued liability contribution.

26 Payments required to be made by the member and/or the employer  
27 are due by the 15th of the month following the month for which the  
28 service credit is allowed and payments made after the due date shall be  
29 assessed a penalty, in lieu of interest, of one percent (1%) per month or  
30 fraction thereof the payment is made beyond the due date; provided,  
31 that these payments shall be made prior to retirement."

32 Sec. 3. This act is effective upon ratification and applies to contributions  
33 allowed on and after January 1, 1991.