

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 357

Short Title: Retirement Governance Changes Act of 2013.-AB (Public)

Sponsors: Representatives Moffitt, Howard, W. Brawley, and Collins (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: State Personnel, if favorable, Finance, if favorable, Appropriations.

March 21, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE CITIZEN OVERSIGHT AND TO MAKE OTHER
CONSOLIDATIONS AND IMPROVEMENTS IN THE GOVERNANCE OF THE
STATE RETIREMENT SYSTEMS, AND TO IMPROVE TRANSPARENCY BY
ENSURING THAT ALL RETIREMENT PLANS ADMINISTERED BY THE
DEPARTMENT OF STATE TREASURER ARE OVERSEEN BY A BOARD OF
TRUSTEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-96 reads as rewritten:

"§ 135-96. **Supplemental Retirement Board of Trustees.**

(a) The Supplemental Retirement Board of Trustees is established to administer the Supplemental Retirement Income Plan established under the provisions of this Article and the North Carolina Public Employee Deferred Compensation Plan established under ~~G.S. 143B-426.24~~G.S. 143B-426.24, and the North Carolina Public School Teachers' and Professional Educators' Investment Plan established under G.S. 115C-341.2.

...

(e) The Board may retain the services of independent appraisers, auditors, actuaries, attorneys, investment counseling firms, statisticians, custodians, or other persons or firms possessing specialized skills or knowledge necessary for the proper administration of investment programs that the Board administers pursuant to this section."

SECTION 2. G.S. 161-50.1(b) reads as rewritten:

"(b) ~~The North Carolina Department of State Treasurer~~Board of Trustees of the Local Governmental Employees' Retirement System shall administer the provisions of this Article."

SECTION 3. G.S. 127A-40 reads as rewritten:

"(f) The Board of Trustees of the Teachers' and State Employees' Retirement System shall administer the provisions of this section. The Secretary of Public Safety shall determine the eligibility of North Carolina National Guard members for the benefits provided in this section and shall certify those eligible to the ~~State Treasurer~~Board of Trustees. In addition, the Department of Public Safety shall, on and after July 1, 1983, provide the ~~Department of State Treasurer~~Board of Trustees with an annual census population, by age and the number of years of creditable service, for all former members of the North Carolina National Guard in receipt of a pension as well as for all active members of the North Carolina National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Public Safety shall also provide the ~~State Treasurer~~a Board of Trustees an



1 annual census population of all former members of the North Carolina National Guard who are
2 not in receipt of a pension and who have 15 and more years of creditable service. The
3 Department of State Treasurer shall make pension payments to those persons certified from the
4 North Carolina National Guard Pension Fund, which shall include general fund appropriations
5 made to the Department of State Treasurer. The ~~Department of State Treasurer~~ Board of
6 Trustees shall have performed an annual actuarial valuation of the fund and shall have the
7 financial responsibility for maintaining the fund on a generally accepted actuarial basis. The
8 Department of Public Safety shall provide the Department of State Treasurer with whatever
9 assistance is required by the State Treasurer in carrying out the State Treasurer's and the Board
10 of Trustees' financial responsibilities."

11 **SECTION 4.** G.S. 135-6(b) reads as rewritten:

12 "(b) Membership of Board; Terms. – The Board shall consist of 14 members, as follows:

13 ...

14 (3) Ten members to be appointed by the Governor and confirmed by the Senate
15 of North Carolina. One of the appointive members shall be a member of the
16 teaching profession of the State; one of the appointive members shall be an
17 employee of the Board of Transportation, who shall be appointed by the
18 Governor for a term of four years commencing April 1, 1947, and
19 quadrennially thereafter; one of the appointive members shall be a
20 representative of higher education appointed by the Governor for a term of
21 four years commencing July 1, 1969, and quadrennially thereafter; one of
22 the appointive members shall be a retired teacher who is drawing a
23 retirement allowance, appointed by the Governor for a term of four years
24 commencing July 1, 1969, and quadrennially thereafter; one shall be a
25 retired State employee who is drawing a retirement allowance, appointed by
26 the Governor for a term of four years commencing July 1, 1977, and
27 quadrennially thereafter; one to be a general State employee, and three who
28 are not members of the teaching profession or State ~~employees;~~ employees,
29 one of whom may be an active or retired member of the National Guard and
30 one of whom may be an active or retired member of the Firemen's and
31 Rescue Squad Workers' Pension Fund; two to be appointed for a term of two
32 years, two for a term of three years and one for a term of four years; one
33 appointive member shall be a law-enforcement officer employed by the
34 State, appointed by the Governor, for a term of four years commencing April
35 1, 1985. At the expiration of these terms of office the appointment shall be
36 for a term of four years;

37"

38 **SECTION 5.** Article 5 of Chapter 135 of the General Statutes is amended by
39 adding a new section to read:

40 "**§ 135-97. Immunity.**

41 A person serving on the Supplemental Retirement Board of Trustees shall be immune
42 individually from civil liability for monetary damages, except to the extent covered by
43 insurance, for any act or failure to act arising out of that service, except where the person:

44 (1) Was not acting within the scope of that person's official duties.

45 (2) Was not acting in good faith.

46 (3) Committed gross negligence or willful or wanton misconduct that resulted in
47 the damages or injury.

48 (4) Derived an improper personal financial benefit, either directly or indirectly,
49 from the transaction.

50 (5) Incurred the liability from the operation of a motor vehicle."

51 **SECTION 7.** G.S. 120-4.9 reads as rewritten:

1 **"§ 120-4.9. Retirement system established.**

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

7 The Retirement System shall have all the power and privileges of a corporation and shall be
8 known as the "Legislative Retirement System of North Carolina." By this name all of its
9 business shall be transacted, all of its funds invested and all of its cash and securities and other
10 property held. All direction and policies concerning the Legislative Retirement System shall be
11 vested in the ~~Legislative Services Commission~~ Board of Trustees.

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

25 **SECTION 8.** G.S. 120-4.10 reads as rewritten:

26 **"§ 120-4.10. Administration of retirement system.**

27 The Board of Trustees of the Teachers' and State Employees' Retirement System shall be
28 the trustee of the Retirement System, ~~under the direction of the Legislative Services~~
29 ~~Commission~~ System. The provisions of this Article shall be administered by the Board of
30 ~~Trustees, under the direction of the Legislative Services Commission~~ Trustees."

31 **SECTION 9.** This act becomes effective July 1, 2013.