

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H.B. 1058
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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH40714-MGp-175A

Short Title: Ret. & Treasury Tech. Corrections Act of 2022.-AB

(Public)

Sponsors: Representative C. Smith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT MAKING TECHNICAL CORRECTIONS AND OTHER CONFORMING AND
3 CLARIFYING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND
4 STATE EMPLOYEES' RETIREMENT SYSTEM; THE LOCAL GOVERNMENTAL
5 EMPLOYEES' RETIREMENT SYSTEM; THE CONSOLIDATED JUDICIAL
6 RETIREMENT SYSTEM; THE NORTH CAROLINA TEACHERS' AND STATE
7 EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT TRUST;
8 THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM; AND THE LOCAL
9 GOVERNMENT COMMISSION.
10 The General Assembly of North Carolina enacts:
11
12 **PART I. CHANGES PERTAINING TO THE TEACHERS' AND STATE EMPLOYEES'**
13 **RETIREMENT SYSTEM**
14 **SECTION 1.1.** G.S. 135-4(j2) reads as rewritten:
15 "(j2) Notwithstanding any provision of this Chapter to the contrary on and after January 1,
16 2023, any member in service with five or more years of membership service may purchase
17 creditable service for service as a member of the General Assembly not otherwise creditable
18 under this section, provided the service is not ~~created~~ credited in the Legislative Retirement Fund
19 nor the Legislative Retirement System, by paying a total lump sum payment. The amount of
20 creditable service purchased under this subsection may not exceed a total of five years. The
21 member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund
22 equal to the full liability increase due to the additional service credits on the basis of the
23 assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement
24 System, except for the following assumptions specific to this calculation: (i) the allowance shall
25 be assumed to commence at the earliest age at which the member could retire on an unreduced
26 retirement allowance and (ii) assumed annual postretirement allowance increases as set by the
27 Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this
28 subsection, an employer may pay all or part of the cost of a service purchase of a member in
29 service. To the extent that the purchase is paid by the employer, the cost paid by the employer
30 shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the
31 member, the cost paid by the member shall be credited to the member's annuity savings account.
32 The creditable service of a member who was a member of the Local Governmental Employees'
33 Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement
34 System, and whose accumulated contributions and reserves are transferred from that System to
35 this System, includes service that was creditable in the Local Governmental Employees'
36 Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement



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1 System, and membership service with those Retirement Systems is membership service with this
2 Retirement System."

3 **SECTION 1.2.** G.S. 135-5.3(b6) reads as rewritten:

4 "(b6) The financial review will be based on financial statements and independent audit
5 reports ~~held by the Local Government Commission~~ or functionally equivalent ~~financial~~
6 ~~statements and independent audit~~ reports submitted to the Board of Trustees by the charter
7 school."
8

9 **PART II. CHANGES PERTAINING TO THE LOCAL GOVERNMENTAL**
10 **EMPLOYEES' RETIREMENT SYSTEM**

11 **SECTION 2.1.** G.S. 128-24(5)c1. reads as rewritten:

12 "c1. Within 90 days of the end of each month in which a beneficiary is
13 reemployed under the provisions of sub-subdivision c. of this
14 subdivision, each employer shall provide a report for that month on
15 each reemployed beneficiary, including the terms of the
16 reemployment, the date of the reemployment, and the amount of the
17 monthly compensation. If the required report is not received within the
18 required 90 days, the Board may do any or all the following:

19 ...

- 20 3. Require the employer to pay any amounts that the beneficiary
21 would have been required to pay to the Retirement System
22 under ~~sub-subdivision f.~~ sub-subdivision e. of this subdivision
23 had the report been received within the required 90 days.

24 Upon receipt by the employer of notice that any payment is due to the
25 Retirement System under this sub-subdivision, the employer shall
26 remit the payment of the amount due to the Retirement System, in one
27 lump sum, no later than 90 days from the date of the notice.

28 If an employer is required to make payments to the Retirement
29 System under sub-sub-subdivision 2. or sub-sub-subdivision 3. of this
30 sub-subdivision, then (i) the beneficiary shall have no obligation to
31 reimburse the Retirement System for related amounts under
32 sub-subdivisions c. or e. of this subdivision, (ii) the provisions of
33 G.S. 128-31(b) relating to offsetting overpayments against payments
34 made from the Retirement System to the member or beneficiary shall
35 not apply, (iii) the Retirement System shall have no duty under
36 G.S. 143-64.80 to pursue repayment of overpayments from the
37 beneficiary, (iv) the overpayments shall not be considered a debt of
38 the beneficiary under Chapter 105A of the General Statutes, and (v)
39 the beneficiary's effective date of retirement shall be adjusted if the
40 adjustment is required under sub-subdivision e. of this subdivision."

41 **SECTION 2.2** G.S. 128-26(h2) reads as rewritten:

42 "(h2) Notwithstanding any provision of this Chapter to the contrary on and after January 1,
43 2023, any member in service with five or more years of membership service may purchase
44 creditable service for service as a member of the General Assembly not otherwise creditable
45 under this section, provided the service is not ~~created~~ credited in the Legislative Retirement Fund
46 nor the Legislative Retirement System, by paying a total lump sum payment. The amount of
47 creditable service purchased under this subsection may not exceed a total of five years. The
48 member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund
49 equal to the full liability increase due to the additional service credits on the basis of the
50 assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement
51 System, except for the following assumptions specific to this calculation: (i) the allowance shall

1 be assumed to commence at the earliest age at which the member could retire on an unreduced
2 retirement allowance and (ii) assumed annual postretirement allowance increases as set by the
3 Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this
4 subsection, an employer may pay all or part of the cost of a service purchase of a member in
5 service. To the extent that the purchase is paid by the employer, the cost paid by the employer
6 shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the
7 member, the cost paid by the member shall be credited to the member's annuity savings account."

8 **SECTION 2.3.** G.S. 128-27 reads as rewritten:

9 **"§ 128-27. Benefits.**

10 ...

11 (e) Reexamination of Beneficiaries Retired on Account of Disability. –

12 Once each year during the first five years following retirement of a member on a disability
13 allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon
14 his application shall, require any disability beneficiary who has not yet attained the age of 60
15 years to undergo a medical examination, such examination to be made at the place of residence
16 of said beneficiary or other place mutually agreed upon, by the physician or physicians
17 designated by the Board of Trustees. Should any disability beneficiary who has not yet attained
18 the age of 60 years refuse to submit to at least one medical examination in any such year by a
19 physician or physicians designated by the Board of Trustees, his allowance may be discontinued
20 until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in
21 and to his pension may be revoked by the Board of Trustees.

22 ...

23 (4) As a condition to the receipt of the disability retirement allowance provided
24 for in ~~G.S. 128-27(d), (d1), (d2) and (d3)~~ subsections (d) through (d4) of this
25 section each member retired on a disability retirement allowance shall, on or
26 before April 15 of each calendar year, provide the Board of Trustees with a
27 statement of his or her income received as compensation for services,
28 including fees, commissions or similar items, and income received from
29 business, for the previous calendar year. Such statement shall be filed on a
30 form as required by the Board of Trustees. The benefit payable to a beneficiary
31 who does not or refuses to provide the information requested within 120 days
32 after such request shall not be paid a benefit until the information so requested
33 is provided, and should such refusal or failure to provide such information
34 continue for 180 days after such request, the right of a beneficiary to a benefit
35 under the Article may be terminated.

36 The Director of the State Retirement Systems shall contact any State or
37 federal agency which can provide information to substantiate the statement
38 required to be submitted by this subdivision and may enter into agreements
39 for the exchange of information.

40 ...

41 (k1) Discretionary One-Time Pension Supplements. – As of December 31 of each year
42 after 2020, the ratio (R) of the Consumer Price Index to such index one year earlier shall be
43 determined, and each beneficiary on the retirement rolls as of ~~July 1~~ September 1 of the calendar
44 year of determination shall be entitled to have a one-time pension supplement paid during
45 October of the same calendar year; provided that any such one-time pension supplement shall be
46 contingent upon a determination by the Board of Trustees under subsection (k) of this section
47 that a permanent increase in benefits will not be paid during the same fiscal year as the one-time
48 pension supplement, but the total fund is providing sufficient investment gains to cover the
49 additional actuarial liabilities on account of such one-time pension supplement. The
50 determination of whether there are sufficient investment gains to cover the one-time pension
51 supplement shall reside exclusively within the discretion of the Board of Trustees and shall be

1 informed by the findings within the annual actuarial valuation reports. In considering whether to
2 grant a one-time pension supplement, the Board of Trustees shall take into account both the rate
3 of inflation as determined by the Consumer Price Index and the record of investment gains or
4 losses during the preceding three-year period. The amount of the one-time pension supplement
5 shall be calculated as a percentage of the annual retirement allowance, where the percentage used
6 is the ratio (R) calculated to the nearest tenth of one per centum (1/10 of 1%), but not more than
7 four per centum (4%).

8 A surviving annuitant of a beneficiary shall be provided a one-time pension supplement under
9 this subsection, when and if payable, calculated using the same per centum.

10 Any supplement granted under this subsection shall be a one-time pension supplement and
11 not a permanent increase in benefits. If the beneficiary dies before payment of the one-time
12 pension supplement is made, then the payment shall be payable to the member's estate or legal
13 representative. No beneficiary shall be deemed to have acquired a vested or contractual right or
14 entitlement to any future one-time pension supplement under this subsection.

15"

17 **PART III. CHANGES PERTAINING TO THE CONSOLIDATED JUDICIAL** 18 **RETIREMENT SYSTEM**

19 **SECTION 3.1.** G.S. 135-60(a) reads as rewritten:

20 "(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall
21 receive a disability retirement allowance computed and payable as provided for service
22 retirement in ~~G.S. 135-58(a2)~~ subsection (a6) of G.S. 135-58, except that the member's creditable
23 service shall be taken as the creditable service ~~he-the member~~ would have had ~~had he-if the~~
24 member had continued in service to the earliest date ~~he-the member~~ could have retired on an
25 unreduced service retirement allowance as a member in the same division of the General Court
26 of Justice in which ~~he-the member~~ was serving on ~~his-the member's~~ disability retirement date."

28 **PART IV. CHANGES PERTAINING TO THE NORTH CAROLINA TEACHERS' AND** 29 **STATE EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT** 30 **TRUST**

31 **SECTION 4.1.** G.S. 120-4.27 reads as rewritten:

32 "**§ 120-4.27. Death benefit.**

33 ...

34 The death benefit provided by this section shall be designated a group life insurance benefit
35 payable under an employee welfare benefit plan that is separate and apart from the Retirement
36 System but under which the members of the Retirement System shall participate and be eligible
37 for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit
38 in the form of group life insurance either by purchasing a contract or contracts of group life
39 insurance with any life insurance company or companies licensed and authorized to transact
40 business in the State of North Carolina for the purpose of insuring the lives of qualified members
41 in service, or by establishing or affiliating with a separate trust ~~fund-qualified under Section~~
42 ~~501(c)(9) of the Internal Revenue Code of 1954, as amended.~~ fund.

43"

44 **SECTION 4.2.** G.S. 128-27(l) reads as rewritten:

45 "(l) Death Benefit Plan. – The provisions of this subsection shall become effective for any
46 employer only after an agreement to that effect has been executed by the employer and the
47 Director of the Retirement System. There is hereby created a Group Life Insurance Plan
48 (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is
49 separate and apart from the Retirement System and under which the members of the Retirement
50 System shall participate and be eligible for group life insurance benefits. The Plan shall be part
51 of the North Carolina Teachers' and State Employees' Benefit Trust, as established under

1 G.S. 135-7(g). All receipts, transfers, appropriations, contributions, investment earnings, and
2 other income belonging to the Plan shall be deposited in the Benefit Trust. All benefits and
3 expenses against the Plan shall be disbursed from the Benefit Trust. Employer and non-employer
4 contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets
5 of the Benefit Trust are dedicated to providing benefits to members and beneficiaries in
6 accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject to the
7 claims of creditors of the employees and non-employees making contributions to the Benefit
8 Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and
9 administrators, and are not subject to the claims of creditors of members and beneficiaries.
10 Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the
11 Fund as approved by the Board of Trustees.

12 ...

13 Notwithstanding the above provisions, the Board of Trustees may and is specifically
14 authorized to provide the death benefit according to the terms and conditions otherwise appearing
15 in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of
16 group life insurance with any life insurance company or companies licensed and authorized to
17 transact business in this State for the purpose of insuring the lives of members in service, or (ii)
18 by establishing a separate trust fund ~~qualified under section 501(c)(9) of the Internal Revenue~~
19 ~~Code of 1954, as amended~~, for such purpose. To that end the Board of Trustees is authorized,
20 empowered and directed to investigate the desirability of utilizing group life insurance by either
21 of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund
22 is established, it shall be operated in accordance with rules and regulations adopted by the Board
23 of Trustees and all investment earnings on the trust fund shall be credited to such fund.

24"

25 **SECTION 4.3.** G.S. 135-5(l) reads as rewritten:

26 "(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter
27 called the "Plan") which is established as an employee welfare benefit plan that is separate and
28 apart from the Retirement System and under which the members of the Retirement System shall
29 participate and be eligible for group life insurance benefits. The Plan shall be part of the North
30 Carolina Teachers' and State Employees' Benefit Trust, as established under G.S. 135-7(g). All
31 receipts, transfers, appropriations, contributions, investment earnings, and other income
32 belonging to the Plan shall be deposited in the Benefit Trust. All benefits and expenses against
33 the Plan shall be disbursed from the Benefit Trust. Employer and non-employer contributions to
34 the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit
35 Trust are dedicated to providing benefits to participants, surviving spouses, and the members'
36 estates in accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject
37 to the claims of creditors of the employees and non-employees making contributions to the
38 Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and
39 administrators, and are not subject to the claims of creditors of members and beneficiaries.
40 Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the
41 Fund as approved by the Board of Trustees.

42 ...

43 Notwithstanding the above provisions, the Board of Trustees may and is specifically
44 authorized to provide the death benefit according to the terms and conditions otherwise appearing
45 in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of
46 group life insurance with any life insurance company or companies licensed and authorized to
47 transact business in this State for the purpose of insuring the lives of members in service, or (ii)
48 by establishing a separate trust fund ~~qualified under Section 501(c)(9) of the Internal Revenue~~
49 ~~Code of 1954, as amended~~, for such purpose. To that end the Board of Trustees is authorized,
50 empowered and directed to investigate the desirability of utilizing group life insurance by either
51 of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund

1 is established, it shall be operated in accordance with rules and regulations adopted by the Board
2 of Trustees and all investment earnings on the trust fund shall be credited to such fund.

3"

4 **SECTION 4.4.** G.S. 143-166.60 reads as rewritten:

5 "**§ 143-166.60. Separate insurance benefits plan for law-enforcement officers.**

6 ...

7 (b) The Boards of Trustees of the Teachers' and State Employees' Retirement System and
8 the Local Governmental Employees' Retirement System shall jointly administer the Plan and
9 shall, under the terms and conditions otherwise appearing in this Article, provide Plan benefits
10 either (i) by establishing a separate trust fund ~~in conformance with Section 501(c)(9) of the~~
11 ~~Internal Revenue Code of 1954 as amended~~ or, (ii) by causing the Plan to affiliate with a master
12 trust, the North Carolina Teachers' and State Employees' Benefits Trust, providing the same
13 benefits for participants. Employer and non-employer contributions to the Benefit Trust and
14 earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to
15 providing benefits to participants, surviving spouses, participants' estates, and persons named by
16 the participant to receive the benefit. The assets of the Benefit Trust are not subject to the claims
17 of creditors of the employees and non-employees making contributions to the Benefit Trust, are
18 not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and
19 are not subject to the claims of creditors of participants. Benefit Trust assets may be used for
20 reasonable expenses to administer benefits provided by the Fund as approved by the Board of
21 Trustees.

22 ...

23 (e) The insurance benefit of the Plan on account of the death of a participant shall be
24 payable to the surviving spouse of the participant or otherwise to the participant's estate;
25 provided, should a participant instruct the Board of Trustees in writing that the participant does
26 not wish these benefits to be paid to his or her spouse or estate, then the benefits shall be paid to
27 the person or persons as the participant may name for this purpose. The life insurance benefits
28 shall be payable only on account of participants in the Plan for six or more months or, if an
29 actively employed officer, at any time after employment if death results from an accident. ~~The~~
30 ~~accident and sickness disability insurance benefits shall be payable to a participant at any time~~
31 ~~after becoming a participant in the Plan.~~

32"

33
34 **PART V. CHANGES PERTAINING TO THE ACHIEVE A BETTER LIFE**
35 **EXPERIENCE (ABLE) PROGRAM**

36 **SECTION 5.1.** G.S. 147-86.70 reads as rewritten:

37 "**§ 147-86.70. Policy and definitions.**

38 ...

39 (b) Definitions. – The following definitions apply in this section:

- 40 (1) ABLÉ account. – An account established and owned by an eligible individual
41 and maintained under this Article. ~~A parent, sibling, guardian, or agent under~~
42 ~~a power of attorney~~ An authorized representative may act on behalf of an
43 account owner.
- 44 (2) Account owner. – The person who enters into an ABLÉ savings agreement
45 pursuant to the provisions of this Article. The account owner must be the
46 designated beneficiary. An authorized representative may act on behalf of the
47 account owner.
- 48 (2a) Authorized representative. – An individual or entity authorized to open or
49 manage an ABLÉ account on behalf of an account owner under the provisions
50 of the federal ABLÉ Act and federal regulations promulgated under the Act.

51"

SECTION 5.2. G.S. 147-86.71 reads as rewritten:

"§ 147-86.71. ABLÉ Program.

(a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established an ABLÉ Program Trust to be administered by the ABLÉ Program Board of Trustees established in G.S. 147-86.72 to enable contributors to save funds to meet the costs of the qualified disability expenses of eligible individuals. The Board shall administer the ABLÉ Program Trust in compliance with the federal ABLÉ Act and federal regulations promulgated under the Act.

(b) Accounts. – The following provisions apply to an ABLÉ account:

(1) An account owner or ~~contributor~~ authorized representative may establish an account by making an initial contribution to the ABLÉ Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. ~~If the contributor is not the account owner, the account owner or the account owner's parent, sibling, guardian, trustee, or agent shall also sign the application form.~~

...

(d) Limitations. – The Board, in administering the ABLÉ Program Trust, shall ensure each of the following:

...

(9) ~~A parent, sibling, trustee, or guardian appointed as a signatory~~ An authorized representative of an ABLÉ account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary."

SECTION 5.3. G.S. 147-86.73 reads as rewritten:

"§ 147-86.73. Administration of ABLÉ Program.

...

(b) Disclaimer. – Nothing in this section shall be construed to create any obligation of the State Treasurer, the Board, the State, or any agency or instrumentality of the State to guarantee for the benefit of any ~~parent, authorized representative,~~ other interested party, or designated beneficiary the rate of return or other return for any contribution to the ABLÉ Program Trust and the payment of interest or other return on any contribution to the ABLÉ Trust Fund.

...."

PART VI. CHANGES PERTAINING TO THE LOCAL GOVERNMENT COMMISSION

SECTION 6.1. G.S. 160A-17.2 is repealed.

PART VII. EFFECTIVE DATE

SECTION 7.1. This act becomes effective July 1, 2022.