

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2017**

**SESSION LAW 2018-52**  
**HOUSE BILL 1056**

AN ACT TO PROMOTE FINANCIAL ACCOUNTABILITY, INTEGRITY, AND RECOVERY OF ASSETS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, THE FIREFIGHTERS AND RESCUE SQUAD WORKERS' PENSION FUND, THE DISABILITY INCOME PLAN, AND THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES.

Whereas, the employee benefit programs operated by the Department of State Treasurer are an intergenerational partnership between public employees and taxpayers of the State, it is incumbent upon the administrators of those programs to provide for Financial Accountability, Integrity, and Recovery of assets (FAIRness); and

Whereas, taxpayers should expect FAIRness in these employee benefit programs, and the Department of State Treasurer should be provided all tools necessary to promote that goal; and

Whereas, public employees who are participants in these employee benefit programs by virtue of deductions from compensation should also expect FAIRness as a baseline in the operation of these programs; and

Whereas, future generations of North Carolinians benefit from fiscally responsible management provided by FAIRness of these employee benefit programs by the current generation; Now, therefore,

The General Assembly of North Carolina enacts:

**SECTION 1.** This act shall be known and cited as the "Financial Accountability, Integrity, and Recovery Act of 2018".

**SECTION 2.(a)** Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-48.37A Employing unit cooperation in collection of amounts owed to Plan.**

(a) Any payment of benefits or other amount to, or premiums or claims paid on behalf of, any Plan member that is later determined to be an overpayment, an erroneous payment, or a benefit or amount for which the Plan member was ineligible shall be repaid by the Plan member to the Plan. If the Plan member is an employee of an employing unit, then any amounts to be recouped under this subsection shall be offset against the net wages of the Plan member.

(b) If a Plan member owes an amount to the Plan under this section, has been notified of this amount owed by the Plan member in writing, and has not entered into a payment plan acceptable to the Plan within 30 days after the written notice, then the Plan shall notify the Plan member's employer of the amount owed. Upon receipt of this notice from the Plan, an employing unit shall offset the amount owed against not less than ten percent (10%) of the net wages of the Plan member until the Plan notifies the employing unit that the amount owed has been paid in full. The Plan's notice to the employing unit shall be prima facie evidence that the amount owed is valid and, notwithstanding any other provision of law to the contrary, the employing unit has



no obligation to verify the amount owed. The employing unit shall provide no more than 30 days' but not less than 14 days' written notice to the Plan member prior to beginning the offset. The employing unit shall remit all amounts offset under this subsection to the Plan in intervals corresponding with the employing unit's regular pay periods.

(c) If an employing unit fails to adhere to the provisions of this section, the Plan shall, after notice to the employing unit of its failure to cooperate, be entitled to seek recovery of any amounts due directly from the employing unit.

(d) No amount due under this section may be forgiven by the Board, the Plan, the Executive Administrator, the State Treasurer, or an employing unit. The Plan and the employing unit shall have a duty to pursue the repayment in full of these funds by all lawful means available, including the filing of a civil action in the General Court of Justice.

(e) Nothing in this section shall be construed to limit the Plan's ability to pursue alternative judicial remedies against a Plan member or a former Plan member, including the pursuit of a judgment and lien against real property."

**SECTION 2.(b)** G.S. 135-9 reads as rewritten:

**"§ 135-9. Exemption from garnishment, attachment, ~~ete,etc.~~; employing unit to offset amount owed by member or beneficiary.**

(a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, or annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Chapter, and the moneys in the various funds created by this Chapter, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Chapter specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. For orders entered on or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations order shall be limited to the lifetime of that former spouse and, upon the death of that former spouse, the former spouse's share shall revert to the member.

(b) Notwithstanding any provisions to the contrary, any overpayment of benefits or erroneous payments to a member in a State-administered retirement system or the former Disability Salary Continuation Plan or the Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member or beneficiary who is later determined to have been ineligible for those benefits or unentitled to those amounts, may be offset against any retirement allowance, return of contributions or any other right accruing under this Chapter to the same person, the person's estate, or designated beneficiary.

(c) Notwithstanding any provisions to the contrary, if a member or beneficiary is employed by the State or any political subdivision of the State, then any overpayment of benefits or erroneous payments to, or on behalf of, the member or beneficiary shall be offset against the net wages of the member or beneficiary. If a member or beneficiary owes an amount to the Retirement System, has been notified of this amount in writing, and has not entered into a payment plan acceptable to the Retirement System, then the Retirement System shall notify the member or beneficiary's employer of the amount owed. Upon receipt of this notice from the Retirement System, the employer shall offset the amount owed against not less than ten percent (10%) of the net wages of the member or beneficiary until the Retirement System notifies the employer that the amount has been paid in full. The Retirement System's notice shall be prima facie evidence that the debt is valid and, notwithstanding any other provision of law to the contrary, the employer has no obligation to verify the amount owed. The employer shall provide no more than 30 days' but not less than 14 days' written notice to the member or beneficiary prior

to beginning the offset. The employer shall remit all amounts offset under this subsection to the Retirement System in intervals corresponding with its regular pay periods. If an employer fails to adhere to the provisions of this section, then the Retirement System shall, after notice to the employer of its failure to cooperate, be entitled to seek recovery of any amounts due directly from the employer.

(d) Nothing in this section shall be construed to limit the Retirement System's ability to pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a judgment and lien against real property."

**SECTION 2.(c)** G.S. 128-31 reads as rewritten:

**"§ 128-31. Exemptions from ~~execution~~execution; employing unit to offset amount owed by member or beneficiary.**

(a) Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Article, and the moneys in the various funds created by this Article, are exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Article specifically otherwise provided. Application for System approval of a domestic relations order dividing a person's interest under the Retirement System shall be accompanied by an order consistent with the system-designed template order provided on the System's Web site. For orders entered on or after January 1, 2015, payment to a member's former spouse pursuant to any such domestic relations order shall be limited to the lifetime of that former spouse and, upon the death of that former spouse, the former spouse's share shall revert to the member.

(b) Notwithstanding any provisions to the contrary, any overpayment of benefits or erroneous payments to a member in a State-administered retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member who is later determined to have been ineligible for those benefits or unentitled to those amounts, may be offset against any retirement allowance, return of contributions or any other right accruing under this Chapter to the same person, the person's estate, or designated beneficiary.

(c) Notwithstanding any provisions to the contrary, if the member or beneficiary is an employee of an employing unit of the State or any political subdivision of the State, then any overpayment of benefits or erroneous payments to, or on behalf of, the member or beneficiary shall be offset against the net wages of the employee. If a member or beneficiary owes an amount to the Retirement System, has been notified of this amount in writing, and has not entered into a payment plan acceptable to the Retirement System, then the Retirement System shall notify the member or beneficiary's employer of the amount owed. Upon receipt of this notice from the Retirement System, the employer shall offset the amount owed against not less than ten percent (10%) of the net wages of the member or beneficiary until the Retirement System notifies the employer that the amount owed has been paid in full. The Retirement System's notice shall be prima facie evidence that the amount owed is valid and, notwithstanding any other provision of law to the contrary, the employer has no obligation to verify the amount owed. The employer shall provide no more than 30 days' but not less than 14 days' written notice to the member or beneficiary prior to beginning the offset. The employer shall remit all amounts offset under this subsection to the Retirement System in intervals corresponding with its regular pay periods. If an employer fails to adhere to the provisions of this section, then the Retirement System shall, after notice to the employer of its failure to cooperate, be entitled to seek recovery of any amounts due directly from the employer.

(d) Nothing in this section shall be construed to limit the Retirement System's ability to pursue alternative judicial remedies against a member or a beneficiary, including the pursuit of a judgment and lien against real property."

**SECTION 2.(d)** This section is effective when it becomes law. Subsection (a) of this section applies to all amounts owed by a Plan member for which notice is sent on and after that date, regardless of the date the benefit, claim, or premium amount which the Plan member was ineligible, the overpayment, or the erroneous payment was made. Subsections (b) and (c) of this section apply to all amounts owed by a member or beneficiary to the applicable retirement system for which notice is sent on and after that date, regardless of the date the overpayment of benefits or the erroneous payment was made.

**SECTION 3.** G.S. 135-48.37 reads as rewritten:

**"§ 135-48.37. Liability of third person; right of subrogation; right of first recovery.**

(a) The Plan shall have the right of subrogation upon all of the Plan member's right to recover from a liable third party for payment made under the Plan, for all medical expenses, including provider, hospital, surgical, or prescription drug expenses, to the extent those payments are related to an injury caused by a liable third party. The Plan member shall do nothing to prejudice these rights. The Plan has the right to first recovery on any amounts so recovered, whether by the Plan or the Plan member, and whether recovered by litigation, arbitration, mediation, settlement, or otherwise. Notwithstanding any other provision of law to the contrary, the recovery limitation set forth in G.S. 28A-18-2 shall not apply to the Plan's right of subrogation of Plan members.

(b) If the Plan is precluded from exercising its right of subrogation, it may exercise its rights of recovery against any third party who was overpaid. If the Plan recovers damages from a liable third party in excess of the claims paid, any excess will be paid to the member, less a proportionate share of the costs of collection.

(c) In the event a Plan member recovers any amounts from a liable third party to which the Plan is entitled under this section, the Plan may recover the amounts directly from the Plan member. If, prior to the Plan exercising its rights under this section, a Plan member utilizes or otherwise disposes of any amounts that were recovered from a liable third party to which the Plan is entitled under this section, then the Plan may pursue alternative judicial remedies against the Plan member to recover the amount to which the Plan is entitled, including the pursuit of a judgment and lien against real property.

(c1) The Plan has a lien, for not more than the value of claims paid related to the liability of the third party, on any damages subsequently recovered by a Plan member against the any liable third party. If the Plan member fails to pursue the remedy against a liable third party, the Plan is subrogated to the rights of the Plan member and is entitled to enforce liability in the Plan's own name or in the name of the Plan member for the amount paid by the Plan.

(d) In no event shall the Plan's lien exceed fifty percent (50%) of the total damages recovered by the Plan member, exclusive of the Plan member's reasonable costs of collection as determined by the Plan in the Plan's sole discretion. The decision by the Plan as to the reasonable cost of collection is conclusive and is not a "final agency decision" for purposes of a contested case under Chapter 150B of the General Statutes. Notice of the Plan's lien or right to recovery shall be presumed when a Plan member is represented by an attorney, and the attorney shall disburse proceeds pursuant to this section."

**SECTION 4.** G.S. 1-359 reads as rewritten:

**"§ 1-359. Debtors of judgment debtor may satisfy execution.**

(a) After the issuing of an execution against property, all persons indebted to the judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the sheriff's receipt is a sufficient discharge for the amount paid.

(b) When the Division of Employment Security of the Department of Commerce (~~Division~~) prevails in a civil action against an employer to collect unpaid employment taxes under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts or other third-party payments in payment of the unpaid taxes in the manner provided by subsection (a) of this section. Direct receipt by the Division is a sufficient discharge for the amount paid by a credit card company, clearinghouse, or third-party payment processor.

(c) When the State Health Plan for Teachers and State Employees prevails in a civil action against a provider to collect an overpayment, the State Health Plan may attach or garnish the provider's credit card receipts or other third-party payments in payment of the amount owed in the manner provided by subsection (a) of this section. Direct receipt by the State Health Plan is a sufficient discharge for the amount paid by a credit card company, clearinghouse, or third-party payment processor.

(d) In addition to the intercept authority under G.S. 135-8(f) and G.S. 128-30(g), when the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System prevails in a civil action against a participating employer, as defined under G.S. 35-1 or G.S. 128-21, to collect monies owed, the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System may attach or garnish the employer's credit card receipts or other third-party payments in payment of the amount owed in the manner provided by subsection (a) of this section. Direct receipt by the Teachers' and State Employees' Retirement System of North Carolina, the Disability Income Plan of North Carolina, or the North Carolina Local Government Employees' Retirement System is a sufficient discharge for the amount paid by a credit card company, clearinghouse, or third-party payment processor."

**SECTION 5.(a)** G.S. 135-48.37 is amended by adding a new subsection to read:

"(e) The priority of any lien held by the State Health Plan for Teachers and State Employees shall be superior to all nongovernmental liens and rights, whether such liens and rights are prior or subsequent to the lien."

**SECTION 5.(b)** G.S. 44-49(a) reads as rewritten:

**"§ 44-49. Lien created; applicable to persons non sui juris.**

(a) From and after March 26, 1935, there is hereby created a lien upon any sums recovered as damages for personal injury in any civil action in this State. This lien is in favor of any person, corporation, State entity, municipal corporation or county to whom the person so recovering, or the person in whose behalf the recovery has been made, may be indebted for any drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services rendered in connection with the injury in compensation for which the damages have been recovered. Where damages are recovered for and in behalf of minors or persons non compos mentis, the liens shall attach to the sum recovered as fully as if the person were sui juris. The priority of a lien held by the State Health Plan for Teachers and State Employees shall be superior to all nongovernmental liens and rights, whether such liens and rights are prior or subsequent to the lien."

**SECTION 5.(c)** G.S. 44-50 reads as rewritten:

**"§ 44-50. Receiving person charged with duty of retaining funds for purpose stated; evidence; attorney's fees; charges.**

A lien as provided under G.S. 44-49 shall also attach upon all funds paid to any person in compensation for or settlement of the injuries, whether in litigation or otherwise. If an attorney represents the injured person, the lien is perfected as provided under G.S. 44-49. Before their disbursement, any person that receives those funds shall retain out of any recovery or any compensation so received a sufficient amount to pay the just and bona fide claims for any drugs, medical supplies, ambulance services, services rendered by any physician, dentist, nurse, or hospital, or hospital attention or services, after having received notice of those claims. Evidence

as to the amount of the charges shall be competent in the trial of the action. Subject to G.S. 135-48.37, the priority of a lien held by the State Health Plan for Teachers and State Employees shall be superior to all nongovernmental liens and rights, whether such liens and rights are prior or subsequent to the lien. Nothing in this section or in G.S. 44-49 shall be construed so as to interfere with any amount due for attorney's services. The lien provided for shall in no case, exclusive of attorneys' fees, exceed fifty percent (50%) of the amount of damages recovered. Except as provided in G.S. 44-51, a client's instructions for the disbursement of settlement or judgment proceeds are not binding on the disbursing attorney to the extent that the instructions conflict with the requirements of this Article."

**SECTION 5.(d)** G.S. 44-51 reads as rewritten:

**"§ 44-51. Disputed claims to be settled before payments.**

(a) Whenever the sum or amount or amounts demanded for medical services or hospital fees shall be in dispute, nothing in this Article shall have any effect of compelling payment thereof until the claim is fully established and determined, in the manner provided by law: Provided, however, that when any such sums are in dispute the amount of the lien shall in no case exceed the amount of the bills in dispute.

(b) This section shall not apply to amounts owed to the State Health Plan for Teachers and State Employees for past-due account receivables related to claims payments."

**SECTION 5.(e)** This section is effective when it becomes law. Priority of the State Health Plan for Teachers and State Employees' lien over nongovernmental liens and rights created under this section shall apply only to nongovernmental liens and rights that have attached to the applicable property on or after the effective date of this act.

**SECTION 6.(a)** Article 1 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-18.10B. Prohibition on purchase of forfeited service.**

Any member whose retirement benefits have been forfeited under G.S. 135-18.10 or G.S. 135-18.10A is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits."

**SECTION 6.(b)** Article 3 of Chapter 128 of the General Statutes is amended by adding a new section to read:

**"§ 128-38.4B. Prohibition on purchase of forfeited service.**

Any member whose retirement benefits have been forfeited under G.S. 128-38.4 or G.S. 128-38.4A is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits."

**SECTION 6.(c)** Article 4 of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-75.1B. Prohibition on purchase of forfeited service.**

Any member whose retirement benefits have been forfeited under G.S. 135-75.1 or G.S. 135-75.1A is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits."

**SECTION 6.(d)** Article 1A of Chapter 120 of the General Statutes is amended by adding a new section to read:

**"§ 120-4.33B. Prohibition on purchase of forfeited service.**

Any member whose retirement benefits have been forfeited under G.S. 120-4.3 or G.S. 120-4.3A is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits."

**SECTION 6.(e)** Article 86 of Chapter 58 of the General Statutes is amended by adding a new section to read:

**"§ 58-86-101. Prohibition on purchase of forfeited service.**

Any member whose retirement benefits have been forfeited under G.S. 58-86-100 is prohibited from subsequently purchasing or repurchasing either those forfeited benefits or any creditable membership service associated with those forfeited benefits."

**SECTION 7.** G.S. 135-4.1 reads as rewritten:

**"§ 135-4.1. Reciprocity of creditable service with other State-administered retirement systems.**

(a) Members First Hired Prior to January 1, 2021. – Only for the purpose of determining eligibility for benefits accruing under this ~~Article~~, Article for members first hired prior to January 1, 2021, creditable service standing to the credit of a member of the Legislative Retirement System, Consolidated Judicial Retirement System, or the Local Governmental Employees' Retirement System or service standing to the credit of a member of the Optional Retirement Program shall be added to the creditable service standing to the credit of a member of this System; provided, that in the event a person is a retired member of any of the foregoing retirement systems or the Optional Retirement Program, such creditable service standing or service standing to the credit of the retired member prior to retirement shall be likewise counted. In no instance shall service credits maintained in the aforementioned retirement systems or the Optional Retirement Program be added to the creditable service in this System for application of this System's benefit accrual rate in computing a service retirement benefit unless specifically authorized by this Article.

(a1) Members First Hired on or After January 1, 2021. – Only for the purpose of determining eligibility for benefits accruing under this Article for members first hired on or after January 1, 2021, creditable service standing to the credit of a member of the Legislative Retirement System, Consolidated Judicial Retirement System, or the Local Governmental Employees' Retirement System shall be added to the creditable service standing to the credit of a member of this System, provided that in the event a person is a retired member of any of the foregoing retirement systems such creditable service standing or service standing to the credit of the retired member prior to retirement shall be likewise counted. In no instance shall service credits maintained in the aforementioned retirement systems be added to the creditable service in this System for application of this System's benefit accrual rate in computing a service retirement benefit unless specifically authorized by this Article.

(b) A person who was a former member of this System and who has forfeited his creditable service in this System by receiving a return of contributions and who has creditable service in the Legislative Retirement System, Consolidated Judicial Retirement System, or the Local Governmental Employees' Retirement System may count such creditable service for the purpose of restoring the creditable service forfeited in this System under the terms and conditions as set forth in this Article and reestablish membership in this System.

(c) Creditable service under this section shall not be counted twice for the same period of time whether earned as a member, purchased, or granted as prior service credits."

**SECTION 8.(a)** Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read:

**"§ 135-48.46. Settlement agreements by employing units.**

(a) No employing unit may enter into any settlement agreement with an employee or former employee regarding health benefits covered under the Plan unless the employing unit has received written authorization from the Plan's Executive Administrator.

(b) No settlement agreement between an employing unit and an employee or former employee may reinstate health benefit coverage under the Plan more than one year prior to the date of the settlement agreement.

(c) Any settlement agreement provision in violation of this section shall be void ab initio."

**SECTION 8.(b)** This section is effective when it becomes law and applies to any settlement agreements entered into on or after that, including any settlement agreements which may be under negotiation on or before that date.

**SECTION 9.(a)** G.S. 135-8(f)(2)f. reads as rewritten:

"f. Each employer shall transmit to the Retirement System on account of each member who retires on or after January 1, 2015, having earned his or her last month of membership service as an employee of that employer the lump sum payment, as calculated under G.S. 135-4(jj) for inclusion in the Pension Accumulation Fund, that would have been necessary in order for the retirement system to restore the member's retirement allowance to the pre-cap amount. Employers are not required to make contributions on account of any retiree who became a member on or after January 1, 2015, and who earned at least five years of membership service in the Retirement System after January 1, 2015. The retirement allowance of a member with a final average compensation of more than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall not be subject to the contribution-based benefit cap if the compensation was earned from multiple simultaneous employers, unless an employer's share of the average final compensation exceeds one hundred thousand dollars (\$100,000). An employer is not required to make contributions on account of any retiree whose final average compensation exceeds one hundred thousand dollars (\$100,000), as hereinafter indexed, based upon compensation earned from multiple simultaneous employers, unless that employer's share of the average final compensation exceeds one hundred thousand dollars (\$100,000), as provided and indexed under G.S. 135-5(a3).

Under such rules as the Board of Trustees shall adopt, the Retirement System shall report monthly to each employer a list of those members for whom the employer made a contribution to the Retirement System in the preceding month that are most likely to require an additional employer contribution should they elect to retire in the following 12 months, if applicable."

**SECTION 9.(b)** G.S. 128-30(g)(2)b. reads as rewritten:

"b. Each employer shall transmit to the Retirement System on account of each member who retires on or after January 1, 2015, having earned his or her last month of membership service as an employee of that employer the lump sum payment, as calculated under G.S. 128-26(y) for inclusion in the Pension Accumulation Fund, that would have been necessary in order for the retirement system to restore the member's retirement allowance to the pre-cap amount. Employers are not required to make contributions on account of any retiree who became a member on or after January 1, 2015, and who earned at least five years of membership service in the Retirement System after January 1, 2015. The retirement allowance of a member with a final average compensation of more than one hundred thousand dollars (\$100,000), as hereinafter indexed, shall not be subject to the contribution-based benefit cap if the compensation was earned from multiple simultaneous employers, unless an employer's share of the average final compensation exceeds one hundred thousand dollars (\$100,000). An employer is not required to make contributions on account of any



retiree whose final average compensation exceeds one hundred thousand dollars (\$100,000), as hereinafter indexed, based upon compensation earned from multiple simultaneous employers, unless that employer's share of the average final compensation exceeds one hundred thousand dollars (\$100,000), as provided and indexed under G.S. 128-27(a3).

Under such rules as the Board of Trustees shall adopt, the Retirement System shall report monthly to each employer a list of those members for whom the employer made a contribution to the Retirement System in the preceding month that are most likely to require an additional employer contribution should they elect to retire in the following 12 months, if applicable."

**SECTION 10.(a)** G.S. 135-105 reads as rewritten:

**"§ 135-105. Short-term disability benefits.**

(a) Any participant who becomes disabled and is no longer able to perform his or her usual occupation ~~may, after at least 365 calendar days succeeding his date of initial employment as a teacher or employee and at least one year of contributing membership service,~~ may receive a benefit commencing on the first day succeeding the waiting ~~period;~~ period provided that the all of the following conditions are met:

- (1) Application for the benefit occurs at least 365 calendar days succeeding the participant's date of initial employment as a teacher or employee.
- (2) The participant has at least one year of contributing membership service earned within 36 calendar months immediately preceding the date of disability. Salary continuation used during the period as provided in G.S. 135-104 shall count toward this one-year requirement.
- (3) Application for the benefit occurs no later than 365 days following the first day of the waiting period.
- (4) The participant's employer and attending physician shall certify that such the participant is mentally or physically incapacitated for the further performance of duty, that such duty.
- (5) The participant's incapacity was incurred at the time of active employment and has been continuous thereafter; provided further that the requirement for one year of contributing membership service must have been earned within 36 calendar months immediately preceding the date of disability and further, salary continuation used during the period as provided in G.S. 135-104 shall count toward the aforementioned one year requirement thereafter.

As to the requirement that a participant applying for short term disability benefits have at least one year of contributing membership service within the 36 calendar months immediately preceding the date of disability, a participant who would have qualified for a benefit under this section but for service in the uniformed services shall not be denied a benefit under this section because of that interruption for military service provided all other requirements of this section are met.

Notwithstanding the requirement that the incapacity was incurred at the time of active employment, any participant who becomes disabled while on an employer approved leave of absence and who is eligible for and in receipt of temporary total benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97 of the General Statutes, will be eligible for all benefits provided under this Article.

...  
(d) ~~The~~ For short-term disability benefits that begin before July 1, 2019, the provisions of this section shall be administered by the employer and further, the benefits during the first six months of the short-term disability period shall be the full responsibility of and paid by the

employer; Provided, further, that upon the completion of the initial six months of the short-term disability period, the employer will continue to be responsible for the short-term benefits to the participant, however, such employer shall notify the Plan, at the conclusion of the short-term disability period or upon termination of short-term disability benefits, if earlier, of the amount of short-term benefits and State Health Insurance premiums paid by the employer and the Plan shall reimburse the employer the amounts so paid.

(d1) For short-term disability benefits that begin on and after July 1, 2019, the provisions of this section shall be administered by the employer. The benefits during the first 12 months of the short-term disability period, including benefits from a preliminary determination of eligibility for long-term disability under subsection (f) of this section, shall be the full responsibility of and paid by the employer.

....."

**SECTION 10.(b)** This section is effective when it becomes law and applies to applications for short-term disability benefits beginning on or after that date.

**SECTION 11.** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 14<sup>th</sup> day of June, 2018.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 14<sup>th</sup> day of June, 2018 and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 25<sup>th</sup> day of June, 2018.

s/ Karen Jenkins  
Enrolling Clerk