

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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SENATE BILL 362\*

Short Title: Retired Teachers Return to Work. (Public)

Sponsors: Senators Swindell; Albertson, Apodaca, Atwater, Bingham, Boseman, Brown, Brunstetter, Davis, Dorsett, Foriest, Forrester, Garrou, Goss, Hartsell, Hoyle, Jenkins, Jones, Kinnaird, Malone, Purcell, Queen, Rand, Rouzer, Snow, Stein, and Tillman.

Referred to: Education/Higher Education.

March 3, 2009

1 A BILL TO BE ENTITLED  
2 AN ACT TO MODIFY THE PROVISION THAT PERMITS RETIRED TEACHERS TO  
3 RETURN TO THE CLASSROOM WITHOUT A LOSS OF RETIREMENT BENEFITS  
4 BY SHORTENING THE WAITING PERIOD BETWEEN RETIREMENT AND  
5 REEMPLOYMENT, EXTENDING THE SUNSET ON THE PROVISION, AND  
6 REMOVING THE PROHIBITION ON CONTRACTOR SERVICE AFTER  
7 RETIREMENT FOR ALL STATE EMPLOYEES, AS RECOMMENDED BY THE  
8 JOINT LEGISLATIVE EDUCATION OVERSIGHT COMMITTEE.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 135-1(20) reads as rewritten:

11 "(20) "Retirement" means the termination of employment and the complete  
12 separation from active service with no intent or agreement, express or  
13 implied, to return to service. A retirement allowance under the provisions of  
14 this Chapter may only be granted upon retirement of a member. In order for  
15 a member's retirement to become effective in any month, the member must  
16 render no service, including part-time, ~~temporary, temporary, or substitute, or~~  
17 ~~contractor service~~, at any time during the six months immediately following  
18 the effective date of retirement. For purposes of this subdivision, service as a  
19 member of a school board shall not be considered service.

20 On or after October 1, 2009, if the member is a retired teacher as defined  
21 in G.S. 115C-325(5a), in order for the retired teacher's retirement to become  
22 effective in any month, the retired teacher must render no service, including  
23 part-time, temporary, or substitute, at any time during the four months  
24 immediately following the effective date of retirement if the retired teacher  
25 has attained (i) the age of at least 65 with five years of creditable service; or  
26 (ii) the age of at least 60 with 25 years of creditable service; or (iii) 30 years  
27 of service."

28 **SECTION 2.** G.S. 135-3(8)c. reads as rewritten:

29 "c. Should a beneficiary who retired on an early or service retirement  
30 allowance under this Chapter be reemployed by, or otherwise  
31 engaged to perform services for, an employer participating in the  
32 Retirement System on a part time, temporary, interim, or on a fee for  
33 service basis, whether contractual or otherwise, and if such  
34 beneficiary earns an amount during the 12 month period immediately



1 following the effective date of retirement or in any calendar year  
2 which exceeds fifty percent (50%) of the reported compensation,  
3 excluding terminal payments, during the 12 months of service  
4 preceding the effective date of retirement, or twenty thousand dollars  
5 (\$20,000), whichever is greater, as hereinafter indexed, then the  
6 retirement allowance shall be suspended as of the first day of the  
7 month following the month in which the reemployment earnings  
8 exceed the amount above, for the balance of the calendar year, except  
9 when the reemployment earnings exceed the amount above in the  
10 month of December, in which case the retirement allowance shall not  
11 be suspended. The retirement allowance of the beneficiary shall be  
12 reinstated as of January 1 of each year following suspension. The  
13 amount that may be earned before suspension shall be increased on  
14 January 1 of each year by the ratio of the Consumer Price Index to  
15 the Index one year earlier, calculated to the nearest tenth of a percent  
16 (1/10 of 1%).

17 The computation of postretirement earnings of a beneficiary  
18 under this sub-subdivision, who retired on or before October 1, 2007,  
19 and who has been retired at least six months and has not been  
20 employed in any capacity with a public school for at least six months  
21 immediately preceding the effective date of reemployment, shall not  
22 include earnings while the beneficiary is employed to teach in a  
23 permanent full-time or part-time capacity that exceeds fifty percent  
24 (50%) of the applicable workweek in a public school. The  
25 Department of Public Instruction shall certify to the Retirement  
26 System that a beneficiary is employed to teach by a local school  
27 administrative unit under the provisions of this sub-subdivision and  
28 as a retired teacher as the term is defined under the provisions of  
29 G.S. 115C-325(a)(5a).

30 The computation of postretirement earnings of a beneficiary  
31 under this sub-subdivision, who retired after October 1, ~~2007~~,  
32 but on or before September 30, 2009, after attaining (i) the age of at  
33 least 65 with five years of creditable service; or (ii) the age of at least  
34 60 with 25 years of creditable service; or (iii) 30 years of service; and  
35 who has been retired at least six months and has not been employed  
36 in any capacity with a public school for at least six months  
37 immediately preceding the effective date of reemployment, shall not  
38 include earnings while the beneficiary is employed to teach in a  
39 permanent full-time or part-time capacity that exceeds fifty percent  
40 (50%) of the applicable workweek in a public school. The  
41 Department of Public Instruction shall certify to the Retirement  
42 System that a beneficiary is employed to teach by a local school  
43 administrative unit under the provisions of this sub-subdivision and  
44 as a retired teacher as the term is defined under the provisions of  
45 G.S. 115C-325(a)(5a).

46 The computation of postretirement earnings of a beneficiary  
47 under this sub-subdivision, who retired on or after October 1, 2009,  
48 after attaining (i) the age of at least 65 with five years of creditable  
49 service; or (ii) the age of at least 60 with 25 years of creditable  
50 service; or (iii) 30 years of service; and who has been retired at least  
51 four months and has not been employed in any capacity with a public

1 school for at least four months immediately preceding the effective  
2 date of reemployment, shall not include earnings while the  
3 beneficiary is employed to teach in a permanent full-time or  
4 part-time capacity that exceeds fifty percent (50%) of the applicable  
5 workweek in a public school. The Department of Public Instruction  
6 shall certify to the Retirement System that a beneficiary is employed  
7 to teach by a local school administrative unit under the provisions of  
8 this sub-subdivision and as a retired teacher as the term is defined  
9 under the provisions of G.S. 115C-325(a)(5a).

10 Beneficiaries employed under this sub-subdivision are not  
11 entitled to any benefits otherwise provided under this Chapter as a  
12 result of this period of employment."

13 **SECTION 3.** G.S. 115C-325(5a) reads as rewritten:

14 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees'  
15 Retirement System of North Carolina who retired on or before October 1,  
16 2007, and who has been retired at least six months, has not been employed in  
17 any capacity for at least six months, immediately preceding the effective  
18 date of reemployment, is determined by a local board of education or a  
19 charter school to have had satisfactory performance during the last year of  
20 employment by a local board of education or a charter school, and who is  
21 employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a  
22 school other than a charter school shall be treated the same as a probationary  
23 teacher except that (i) a retired teacher is not eligible for career status and (ii)  
24 the performance of a retired teacher who had attained career status prior to  
25 retirement shall be evaluated in accordance with a local board of education's  
26 policies and procedures applicable to career teachers.

27 "Retired teacher" also means a beneficiary of the Teachers' and State  
28 Employees' Retirement System of North Carolina who retired after October  
29 1, ~~2007~~, 2007, but on or before September 30, 2009, after attaining (i) the age  
30 of at least 65 with five years of creditable service; or (ii) the age of at least  
31 60 with 25 years of creditable service; or (iii) 30 years of service; who has  
32 been retired at least six months, has not been employed in any capacity for at  
33 least six months immediately preceding the effective date of reemployment,  
34 is determined by a local board of education or a charter school to have had  
35 satisfactory performance during the last year of employment by a local board  
36 of education or a charter school, and who is employed to teach as provided  
37 in G.S. 135-3(8)c. A retired teacher at a school other than a charter school  
38 shall be treated the same as a probationary teacher except that (i) a retired  
39 teacher is not eligible for career status and (ii) the performance of a retired  
40 teacher who had attained career status prior to retirement shall be evaluated  
41 in accordance with a local board of education's policies and procedures  
42 applicable to career teachers.

43 "Retired teacher" also means a beneficiary of the Teachers' and State  
44 Employees' Retirement System of North Carolina who retired on or after  
45 October 1, 2009, after attaining (i) the age of at least 65 with five years of  
46 creditable service; or (ii) the age of at least 60 with 25 years of creditable  
47 service; or (iii) 30 years of service; who has been retired at least four  
48 months, has not been employed in any capacity for at least four months  
49 immediately preceding the effective date of reemployment, is determined by  
50 a local board of education or a charter school to have had satisfactory  
51 performance during the last year of employment by a local board of

1 education or a charter school, and who is employed to teach as provided in  
2 G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall  
3 be treated the same as a probationary teacher except that (i) a retired teacher  
4 is not eligible for career status and (ii) the performance of a retired teacher  
5 who had attained career status prior to retirement shall be evaluated in  
6 accordance with a local board of education's policies and procedures  
7 applicable to career teachers."

8 **SECTION 4.** Notwithstanding any other provision of law, effective July 1, 2009,  
9 each local school administrative unit shall pay to the Teachers' and State Employees'  
10 Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths  
11 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt  
12 from the earnings cap, are being paid. Each local school administrative unit shall report  
13 monthly to the Retirement Systems Division on payments made pursuant to this section.

14 Notwithstanding any other provision of law, effective July 1, 2009, any portion of  
15 the payment made by a local school administrative unit to a reemployed teacher who is exempt  
16 from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate,  
17 that exceeds the State-supported salary level for that position shall be paid from local funds.

18 **SECTION 5.** If the Internal Revenue Service determines that the provisions of  
19 G.S. 135-3(8)c. relating to the computation of postretirement earnings of retired teachers  
20 jeopardize the status of the Teachers' and State Employees' Retirement System of North  
21 Carolina under the Internal Revenue Code, then the third and fourth paragraphs of  
22 G.S. 135-3(8)c. are repealed.

23 **SECTION 6.** This act becomes effective October 1, 2009, and expires October 1,  
24 2011.