

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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SENATE BILL 399  
Education/Higher Education Committee Substitute Adopted 4/17/19

Short Title: Rehire High-Need Teachers.

(Public)

Sponsors:

Referred to:

April 1, 2019

1 A BILL TO BE ENTITLED  
2 AN ACT TO ALLOW FOR RETIRED TEACHERS TO RETURN TO WORK IN HIGH-NEED  
3 SCHOOLS WITHOUT ADVERSELY IMPACTING THE RETIRED TEACHERS'  
4 BENEFITS.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 20 of Chapter 115C of the General Statutes is amended by  
7 adding a new section to read:

8 "§ 115C-302.4. High-need retired teachers.

9 (a) Definitions. – The following definitions apply in this section:

10 (1) High-need retired teacher. – A beneficiary of the Teachers' and State  
11 Employees' Retirement System of North Carolina who meets both of the  
12 following requirements:

13 a. Retired on or before February 1, 2019, after attaining (i) the age of at  
14 least 65 with five years of creditable service, (ii) the age of at least 60  
15 with 25 years of creditable service, or (iii) 30 years of creditable  
16 service.

17 b. Is reemployed by a local board of education to teach at a high-need  
18 school.

19 (2) High-need school. – A school that, at any point on or after July 1, 2017, meets  
20 one of the following criteria:

21 a. Is a Title I school. As used in this sub-subdivision, a Title I school is a  
22 school identified under Part A of Title I of the Elementary and  
23 Secondary Education Act of 1965, as amended.

24 b. Receives an overall school performance grade of D or F, as calculated  
25 by the State Board of Education pursuant to G.S. 115C-83.15(d).

26 (3) STEM. – Science, technology, engineering, and mathematics.

27 (b) Salary Level. – A high-need retired teacher shall be compensated as follows:

28 (1) Except as provided in subdivision (2) of this subsection, a high-need retired  
29 teacher shall be paid on the first step of the teacher salary schedule.

30 (2) If a high-need retired teacher serves as a teacher in any of the following  
31 licensure areas, he or she shall be paid on the sixth step of the teacher salary  
32 schedule:

33 a. STEM.

34 b. Special education.

35 (c) No State Salary Supplements or Increase in Salary. – A high-need retired teacher shall  
36 not receive any State salary supplement or State bonus. A high-need retired teacher shall not



1 move beyond the salary steps prescribed by subsection (b) of this section, regardless of the length  
2 of time spent as a high-need retired teacher.

3 (d) Local Salary Supplement. – A high-need retired teacher shall receive any local salary  
4 supplements that are given to employees of the local board of education.

5 (e) Term of Contract. – A contract between the local board of education and a high-need  
6 retired teacher shall be for a term of no more than one school year.

7 (f) Identification of STEM and Special Education Licensure Areas. – The Superintendent  
8 of Public Instruction shall identify and provide to each local school administrative unit a list of  
9 STEM and special education licensure areas that qualify for reemployment pursuant to  
10 subsection (b)(2) of this section. Local school administrative units shall make the list of STEM  
11 and special education licensure areas available to high-need retired teachers."

12 **SECTION 2.(a)** G.S. 135-3(8) is amended by adding a new sub-subdivision to read:

13 "g. Notwithstanding sub-subdivisions c. and d. of this subdivision, the  
14 computation of postretirement earnings of a beneficiary under this  
15 subdivision, who retired on or before February 1, 2019, and who has  
16 been retired at least six months, shall not include earnings while the  
17 beneficiary is employed to teach as a high-need retired teacher, as  
18 defined under G.S. 115C-302.4(a)(1). The Department of Public  
19 Instruction shall certify to the Retirement System that a beneficiary is  
20 employed to teach by a local board of education as a high-need retired  
21 teacher, as defined under G.S. 115C-302.4(a)(1).

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

25 **SECTION 2.(b)** G.S. 135-3(8)c1. reads as rewritten:

26 "c1. Within 90 days of the end of each month in which a beneficiary is  
27 reemployed under the provisions of ~~sub-subdivision~~ sub-subdivisions  
28 c. and g. of this subdivision, each employer shall provide a report for  
29 that month on each reemployed beneficiary, including the terms of the  
30 reemployment, the date of the reemployment, and the amount of the  
31 monthly compensation. If such a report is not received within the  
32 required 90 days, the Board may assess the employer with a penalty of  
33 ten percent (10%) of the compensation of the unreported reemployed  
34 beneficiaries during the months for which the employer did not report  
35 the reemployed beneficiaries, with a minimum penalty of twenty-five  
36 dollars (\$25.00). If after being assessed a penalty, an employer  
37 provides clear and convincing evidence that the failure to report  
38 resulted from a lack of oversight or some other event beyond the  
39 employer's control and was not a deliberate attempt to omit the  
40 reporting of reemployed beneficiaries, the Board may reduce the  
41 penalty to not less than two percent (2%) of the compensation of the  
42 unreported reemployed beneficiaries during the months for which the  
43 employer failed to report, with a minimum penalty of twenty-five  
44 dollars (\$25.00). Upon receipt by the employer of notice that a penalty  
45 has been assessed under this sub-subdivision, the employer shall remit  
46 the payment of the penalty to the Retirement System, in one lump sum,  
47 no later than 90 days from the date of the notice."

48 **SECTION 3.** G.S. 135-1(10) reads as rewritten:

49 "(10) "Employee" shall mean all full-time employees, agents or officers of the State  
50 of North Carolina or any of its departments, bureaus and institutions other than  
51 educational, whether such employees are elected, appointed or employed:

1            Provided that the term "employee" shall not include any person who is a  
2            member of the Consolidated Judicial Retirement System, any member of the  
3            General ~~Assembly or Assembly~~, any part-time or temporary ~~employee-~~  
4            ~~employee, or any high-need retired teacher as defined under~~  
5            G.S. 115C-302.4(a)(1). Notwithstanding any other provision of law,  
6            "employee" shall include all employees of the General Assembly except  
7            participants in the Legislative Intern Program, pages, and beneficiaries in  
8            receipt of a monthly retirement allowance under this Chapter who are  
9            reemployed on a temporary basis. "Employee" also includes any participant  
10           whose employment is interrupted by reason of service in the Uniformed  
11           Services, as that term is defined in section 4303(16) of the Uniformed Services  
12           Employment and Reemployment Rights Act, Public Law 103-353, if that  
13           participant was an employee at the time of the interruption; if the participant  
14           does not return immediately after that service to employment with a covered  
15           employer in this System, then the participant shall be deemed "in service" until  
16           the date on which the participant was first eligible to be separated or released  
17           from his or her involuntary military service. In all cases of doubt, the Board  
18           of Trustees shall determine whether any person is an employee as defined in  
19           this Chapter. "Employee" shall also mean every full-time civilian employee  
20           of the North Carolina National Guard who is employed pursuant to section  
21           709 of Title 32 of the United States Code and paid from federal appropriated  
22           funds, but held by the federal authorities not to be a federal employee:  
23           Provided, however, that the authority or agency paying the salaries of such  
24           employees shall deduct or cause to be deducted from each employee's salary  
25           the employee's contribution in accordance with applicable provisions of  
26           G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement  
27           System; coverage of employees described in this sentence shall commence  
28           upon the first day of the calendar year or fiscal year, whichever is earlier, next  
29           following the date of execution of an agreement between the Secretary of  
30           Defense of the United States and the Adjutant General of the State acting for  
31           the Governor in behalf of the State, but no credit shall be allowed pursuant to  
32           this sentence for any service previously rendered in the above-described  
33           capacity as a civilian employee of the North Carolina National Guard:  
34           Provided, further, that the Adjutant General, in the Adjutant General's  
35           discretion, may terminate the Retirement System coverage of the  
36           above-described North Carolina National Guard employees if a federal  
37           retirement system is established for such employees and the Adjutant General  
38           elects to secure coverage of such employees under such federal retirement  
39           system. Any full-time civilian employee of the North Carolina National Guard  
40           described above who is now or hereafter may become a member of the  
41           Retirement System may secure Retirement System credit for such service as  
42           a North Carolina National Guard civilian employee for the period preceding  
43           the time when such employees became eligible for Retirement System  
44           coverage by paying to the Retirement System an amount equal to that which  
45           would have constituted employee contributions if the employee had been a  
46           member during the years of ineligibility, plus interest. Employees of State  
47           agencies, departments, institutions, boards, and commissions who are  
48           employed in permanent job positions on a recurring basis must work at least  
49           30 hours per week for nine or more months per calendar year in order to be  
50           covered by the provisions of this ~~subdivision-~~subdivision, except that no  
51           high-need retired teacher as defined under G.S. 115C-302.4(a)(1) shall be

1           considered an employee. On and after August 1, 2001, a person who is a  
2           nonimmigrant alien and who otherwise meets the requirements of this  
3           subdivision shall not be excluded from the definition of "employee" solely  
4           because the person holds a temporary or time-limited visa."

5           **SECTION 4.** G.S. 135-48.40(b)(1a) reads as rewritten:

6           "(1a) All retirees who (i) are employed by an employing unit that elects to be  
7           covered by this subdivision, (ii) do not qualify for coverage under subdivision  
8           (1) of this subsection, and (iii) are determined to be "full-time" by their  
9           employing unit in accordance with section 4980H of the Internal Revenue  
10          Code and the applicable regulations, as ~~amended~~-amended, or are high-need  
11          retired teachers, as defined under G.S. 115C-302.4(a)(1). The employing unit  
12          shall pay the employer premiums for retirees who enroll under this  
13          subdivision."

14          **SECTION 5.** If the Internal Revenue Service determines that the provisions of  
15          G.S. 135-3(8)g., as enacted by this act, relating to the computation of postretirement earnings of  
16          retired teachers jeopardize the status of the Teachers' and State Employees' Retirement System  
17          of North Carolina under the Internal Revenue Code, then this act is repealed 30 days from receipt  
18          of that determination by the State Treasurer. Upon receipt of that determination, the State  
19          Treasurer shall notify the Revisor of Statutes of the determination and the date of receipt. Within  
20          one business day of receipt of the determination, the State Treasurer shall notify all local school  
21          administrative units of the repeal of this act and shall publicly notice the receipt of this  
22          information on the Department of State Treasurer Web site. Within one business day of receipt  
23          of the notice from the State Treasurer, a local school administrative unit shall notify all high-need  
24          retired teachers employed by its local board of education of the repeal of this act.

25          **SECTION 6.** This act becomes effective July 1, 2019, and expires June 30, 2021.