TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM & LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM

Contribution-Based Benefit Cap (CBBC): 10-Year Review

July 31, 2025

North Carolina Retirement Systems

Discussion Topics

- History
  - Initial legislation
  - Cap factor history
  - Legislation affecting different CBBC provisions
  - Invoicing
- Current practices
  - Monthly employee lists
  - Staff-supported estimates
  - Employer self-estimate option (new)
  - Payment collection
- The future
  - Cap factor review
  - “CBBC Group 2”

History

Initial Legislation – S.L. 2014-88

- Applies to retirements effective 1/1/2015 or later, where four-year average final compensation (AFC) >= $100,000 (as of 2015, increasing with inflation)
  - 2025 AFC threshold = $134,687.67 (still increasing with inflation)
  - If retiree's AFC is less than threshold, CBBC provisions do not apply
- CBBC is the lifetime benefit that the retiree's 6% of pay contributions would have funded, multiplied by a "cap factor" (currently 4.5 TSERS, 4.7 LGERS)
- If benefit exceeds CBBC and retiree joined system before 2015, last employer pays actuarial value of benefit exceeding CBBC
  - Originally, only payment option for employers was a full lump sum
- If retiree joined system 2015 or later, benefit limited to CBBC unless retiree and/or employer pays actuarial value of additional benefit
- RSD sends monthly report to employers identifying employees whose retirements are most likely to involve CBBC provisions

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Example of How CBBC Works (Assuming Cap Factor = 4.5)

- Retiree's 6% contributions would have funded lifetime benefit of $30,000 / yr.
- "CBBC" is 4.5 x $30,000 = $135,000 / yr.
- Calculated benefit associated with membership service is $150,000 / yr.
- No other creditable service (e.g. purchased or noncontributory)
- Assume retiree is age 55 (corresponding actuarial factor currently 13.2091)
- If retiree joined system before 2015:
  - Retiree's benefit will be $150,000 / year
  - Last employer's liability is ($150,000 - $135,000) x 13.2091, or ~ $198,000
- If retiree joined system 2015 or later:
  - Retiree's benefit will be $150,000 / year if ~$198,000 lump sum paid by retiree and/or employer(s) within 90 days of effective retirement date
  - Otherwise, retiree's benefit will be $135,000 / year
  - Employers cannot discriminate by paying for some but not others

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Cap Factor History

- Lesser cap factor results in more retirements being affected, and more contributions being required for each affected retirement
- Set by Boards based on advice of consulting actuary, so that no more than 0.75% of future retirements are expected to be affected (3 out of 400)
- Oct. 2014: Cap factors set at 4.8 (TSERS) and 5.0 (LGERS) for 2015 retirements, by Board resolution
- Upon receiving liability notices, several school boards filed litigation, alleging (among other things) assessments were invalid because cap factors had not gone through administrative rulemaking
- Oct. 2015: After one year of observation, cap factors were changed to 4.5 (TSERS) and 4.7 (LGERS) effective for 2016 retirements, by Board resolution
- While litigation occurred, Boards completed rulemaking in 2018 establishing the 4.5 (TSERS) and 4.7 (LGERS) cap factors

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Cap Factor History (Continued)

- *Cabarrus Cnty. Bd. of Educ. v. DST* (4/3/2020): N.C. Supreme Court held adoption of cap factors based on original CBBC law was not exempt from rulemaking. Case did not address validity of 2018 rules.
- S.L. 2020-48 (S. 4), enacted June 2020, provided that adoption of cap factors is not subject to rulemaking, and clarified Boards' responsibility to review cap factors at least once every five years as part of actuarial experience study.
- Oct. 2020: As part of five-year experience study, Boards left cap factors unchanged at 4.5 (TSERS) and 4.7 (LGERS).
- *Wilson Cnty. Bd. of Educ. v. RSD* (8/15/2023) and *Harnett Cnty. Bd. of Educ. v. RSD* (10/17/2023): In these two cases collectively, N.C. Court of Appeals held that TSERS complied with requirements when making the 2018 administrative rule; the CBBC provisions and rule were not impermissibly retroactive; and the provisions did not violate provisions of U.S. and N.C. Constitutions. N.C. Supreme Court denied review of both cases.

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Legislation Affecting CBBC – Payment Options

- Initially, only payment option for employers was full lump sum
- S.L. 2017-128 (S. 2) added two payment options for employers:
  - Installment plan ending within 15 months of the retirement (no interest)
  - Installment plan ending within 27 months of the retirement (with interest)
- S.L. 2020-29 (S. 4) established date for paying CBBC liability or entering into installment plan to be 12 months after the member's retirement
- S.L. 2021-72 (S. 1) created another payment option for employers, allowing employer contribution rate to be adjusted based on amortization period for unfunded liabilities (currently 12 years), and made this the automatic payment option for invoices older than 90 days as of the beginning of a new fiscal year
- S.L. 2021-75 (S. 1.1) allowed LGERS employers to use trust fund vehicle to set aside funds for payment of future CBBC liabilities
- S.L. 2021-75 (S. 1.3) extended employer payment date to 6 months from invoice date, if later than otherwise provided payment date

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Legislation Affecting CBBC – Monthly Report

- Since initial law was enacted, RSD has been required to send each employer a monthly report identifying which employees' retirements are most likely to involve CBBC provisions
- S.L. 2017-128 (S. 4) clarified that after receiving the monthly report, employers must provide it to their governing boards
- S.L. 2020-48 (S. 1) clarified that information in report is confidential and not a public record

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Legislation Affecting CBBC – Calculation Details

- S.L. 2021-72 (S. 3) made several changes to details of CBBC liabilities
  - Applied early retirement reduction in CBBC calculation if relevant
  - Assigns liability to employers who contributed to AFC, if last employer did not pay any compensation during AFC period
  - Clarified CBBC calculation assumes Maximum Allowance, no other option

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Legislation Affecting CBBC – Public School Units (PSUs)

- S.L. 2021-72 (S. 4) directed DST and N.C. School Boards Association to convene working group to review CBBC provisions as they apply to PSUs
- S.L. 2023-48 enacted recommendations of working group
- S.L. 2023-48 (S. 1) established framework for public school units (PSUs) to certify to RSD that they are exempt from either 50% or 100% of a CBBC liability, if member's employment history meets certain conditions
- S.L. 2023-48 (S. 2) authorized DST to use that framework to resolve then-pending litigation, which resulted in the resolution of all litigation filed by PSUs

Some details omitted for brevity. Governing provisions are G.S. 135-4(jj), 135-5(a3), and 135-8(f)(2) for TSERS, and G.S. 128-26(y), 128-27(a3), and 128-30(g)(2) for LGERS.

Exemption Criteria in S.L. 2023-48 (for PSUs Only)

- If PSU certifies to both of the following, PSU is not required to pay the contribution at all (100% exemption):

(1) Retiree worked in "a position for which State law or regulation mandates the specific dollar amount that must be paid from State funds to an employee in that position or positions" for their entire four-year AFC period – OR for at least 12 years.

AND

(2) During AFC period, retiree did not receive a local supplement for a school year that exceeded 20% of their State-funded salary.

- If PSU certifies to (1), and to a version of (2) where 20% is replaced by 50%, PSU is required to pay 50% of the contribution
- PSU must certify within 12 months of receiving invoice; otherwise, full contribution owed
- Exemption process pertains only to members who joined TSERS before 2015

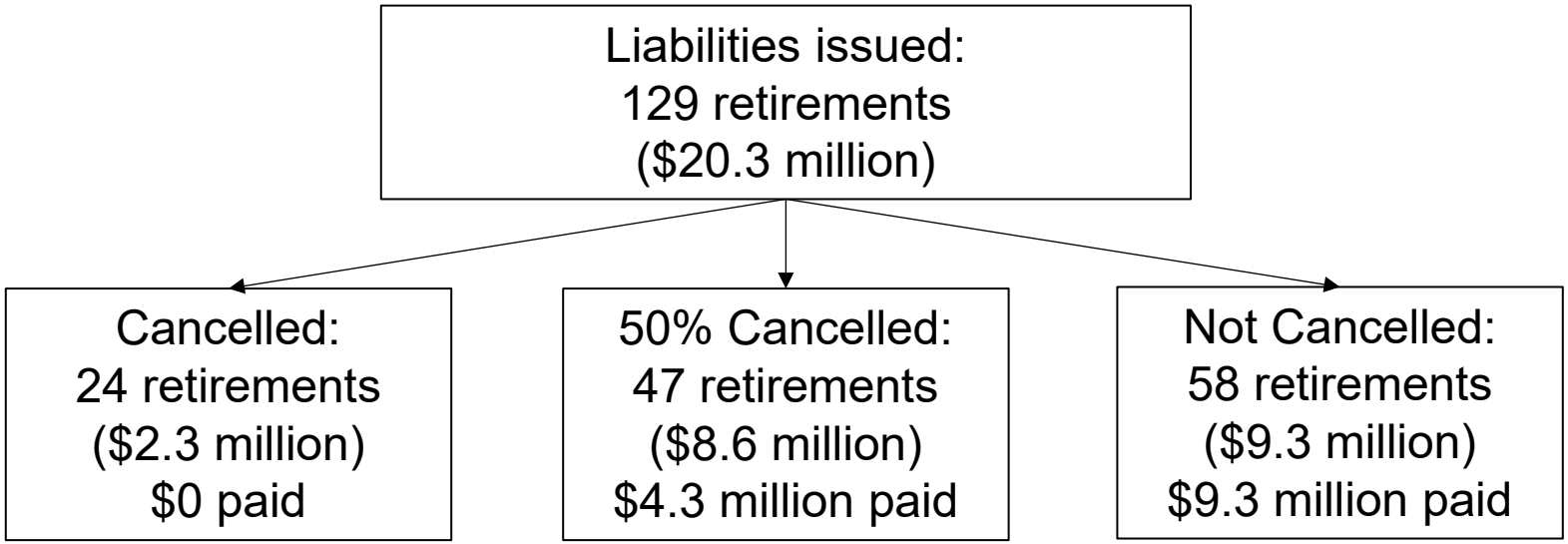
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Litigation – Resolution

- S.L. 2023-48 authorized RSD to use the “50% or 100% exemption framework” to resolve still-pending litigation filed by PSUs
- N.C. Court of Appeals decisions from 2023 provided further clarity
- At the time, pending litigation involved 47 retirements from 28 different PSUs
- There were also 32 retirements from 24 different PSUs, where litigation might have been filed once a legislatively-imposed moratorium expired
- After enactment of S.L. 2023-48, RSD began engaging in conversations with all the PSUs referenced above
- All pending litigation was resolved by June 30, 2024 by the PSUs either paying the liabilities, or going through the cancellation framework that S.L. 2023-48 allowed in certain circumstances

Public School Unit (PSU) Experience Since S.L. 2023-48

- Time period summarized below – July 2023 through June 2025 (PSUs only)
- Includes liabilities originally assessed since 2015, reissued in 2023, related to invoices that were unpaid or in litigation when S.L. 2023-48 enacted



Total CBBC Retirements, January 2015 – July 2025 (~ 10.5 Years)

- 946 retirements (out of ~170,000 total TSERS + LGERS retirements), which is a little over 0.5% of retirements
- $112.5 million in required contributions
- Does not include PSU retirements certified for 100% exemption

	TSERS	LGERS	Total
# Retirements	544	402	946
Invoiced ($M)	$64.6	$47.9	$112.5
Fully Collected ($M)	$61.1	$46.2	$107.3
Not Fully Collected ($M)	$3.5	$1.7	$5.2

- Note, “Not Fully Collected” would include employers in the middle of an installment plan, or employers deciding how to pay recent invoices

Current Practices

Monthly Employee Lists

- Each month, RSD required to send all employers a list of their employees whose retirements are most likely to require an additional contribution under the CBBC provisions
- For this purpose, RSD modifies the “actual” CBBC parameters and generates the list using “adjusted” factors
- An employee’s appearance on the list is not a guarantee that a CBBC contribution will be required, and quite often, none is required
- However, it does mean that the employee is in the relatively small subset that RSD considers most likely to require a contribution
- Casting a “wider net” for purposes of these lists helps to prevent an employer ultimately being surprised by having to pay a large liability, which from RSD’s point of view is the most significant risk the lists are meant to address
- RSD intends to pursue more permanent documentation of the process for adjusting parameters, possibly through administrative rulemaking

Monthly Employee Lists – Actual and Adjusted Parameters

Parameter	Actual	Adjusted
Cap Factor	4.5 (TSERS) 4.7 (LGERS)	4.2 (TSERS) 4.4 (LGERS)
AFC Threshold	Four-year average of $134,687.68 (2025)	Last calendar year $120,000.00 (2025)
Retirement Eligibility (General and Fire/Rescue Employees)	Age 60 w/ 5 yrs.; Age 50 w/ 20 yrs.; 30 yrs. service	Age 59 w/ 4 yrs.; Age 49 w/ 16 yrs.; 26 yrs. service
Retirement Eligibility (Law Enforcement)	Age 55 w/ 5 yrs.; Age 50 w/15 yrs.; 25 yrs. service	Age 54 w/ 4 yrs.; Age 49 w/ 11 yrs.; 21 yrs. service



"Wider Net"

Staff-Supported Estimates

- RSD staff is available to help any employer estimate a potential CBBC liability
- Longstanding practice
- RSD encourages employers to request an estimate this way if they want anything more precise than a “ballpark” estimate
- Employer will need to provide details about retirement scenario, which RSD cannot anticipate before the employee has retired
- It is possible to request more than one scenario estimate for a retirement

Employer Self-Estimate (New Option)

- RSD is aware that some employers would prefer to do their own scenario estimates (possibly quicker turnaround, confidential assumptions, may be very familiar with how the rules work but just want to be "pointed to the right table")
- RSD has now released guidance for employers in completing self-estimates:
- https://www.myncretirement.com/milestones/nearing-retirement/contribution-based-benefit-cap-cbbc/cbbc-impact-calculation
- Guidance is designed to be like a "recipe" – gathering ingredients and then working through the calculation
- RSD will consider feedback from any participating employers using it
- Employers should not use self-estimates for budgeting or accounting; they should contact RSD staff for a more formal estimate

Guidance currently includes this disclaimer: "The information provided here is intended to serve as a general resource for estimating the potential impact of the Contribution-Based Benefit Cap provisions established in North Carolina General Statutes §§ 128-27(a3) and 135-5(a3). While the information is intended to be as accurate as possible, it is subject to the detailed provisions of the North Carolina General Statutes. The information cannot alter, modify, or otherwise change the controlling legal documents or North Carolina General Statutes in any way, nor can any right accrue by reason of any information provided or omission of information provided herein."

Payment Collection

- For several years, payment collection processes involved a series of calls and letters, potentially culminating in actions to intercept State appropriations
- Process simplified by S.L. 2021-72, which established a collection method where the employer contribution rate is adjusted to pay the contribution over the unfunded liability amortization period (currently 12 years)
- Amortization adjustment occurs by default as of July 1 for any invoice older than 90 days that the employer has not paid or otherwise agreed to pay
- 90-day period does not start counting for PSUs until the one-year opportunity to certify exemption (50% or 100%) has expired
- In April each year, RSD identifies the invoices that may be subject to amortization adjustment at upcoming July 1
- In May each year, RSD sends notification to each employer describing the open invoice and the employer contribution rate adjustment that may apply
- RSD follows up with employers by phone/email throughout May-June
- As of July 1, new employer contribution rates go into effect, including adjustment for amortization payment of affected CBBC invoices

Payment Collection – Amortization Experience

- So far, most employers are choosing to pay liabilities over 1-3 fiscal years using other payment alternatives (lump sum, 15-month installment with no interest, or 27-month installment with interest), rather than allowing their contribution rate to be adjusted for many years
- Adjustments so far have ranged from 0.01% to 0.81% of compensation

Effective Date	# Amortization Adjustments	# Employers
July 1, 2023	0 TSERS 1 LGERS	0 TSERS 1 LGERS
July 1, 2024	1 TSERS 0 LGERS	1 TSERS 0 LGERS
July 1, 2025	7 TSERS 0 LGERS	3 TSERS 0 LGERS

The Future

Cap Factor Review

- Consulting actuaries are completing five-year experience study
- Study will include analysis of Boards' alternatives regarding cap factor
- Boards may make decision as early as October 2025 (to be effective for 2026 retirements), even though remainder of experience study is not expected to be approved by Boards until January 2026

CBBC "Group 2"

- Until now, everyone whose retirement has involved CBBC provisions joined the Retirement Systems before 2015
- Different set of rules will apply for those who joined systems in 2015 (or later)
- Retirement benefit will be automatically limited to CBBC unless member or employer(s) pay actuarial cost in full within 90 days of effective retirement date
- It is recommended that employers develop policies to ensure they do not discriminate against some employees by paying for others
- PSU certification / exemption process will not apply
- 15-month, 27-month, and amortization payment options will not apply
- Employees hired in 2015 or later are separately identified on monthly lists sent to employers, although statute does not require them to be on list
- RSD does not know when the first "CBBC Group 2" retirement will happen, but there are already people on the monthly list sent to employers, meaning it could conceivably occur at any time
- RSD has planned the associated administrative processes, but it is possible we will learn important things from going through the first few cases

Thank you.



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