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Administrative Changes Retirement System/Treasurer HB 1134 (PCS)

The Department of State Treasurer aims to provide public employees and retirees, including teachers, police officers, firefighters, and public servants from all over the state with secure pensions and retirement. This legislative proposal incorporates provisions that will clarify interpretations of current law, conform to federal regulation and increase efficiency of administration of the retirement systems administered by the Department.

Statutes Affected: 58-86-2; 58-86-55; 58-86-60; 58-86-90; 135-5(n); 128-27(i) 135-1(14a); 135-5(a); 135-5(b19); 135-5(b21); 135-5(m4); 128-21(14a); 128-27(a); 128-27(b1); 128-27(b22); 128-27(m3); 135-53; 135-58; 135-74(c1); 135-1(7b); 135-1(11c); 128-28(r),(s); 135-4(jj); 128-26(y); 135-5(a3); 128-27(a3); 135-5(f); 135-5(l); 135-63; 128-27(f); 128-27(l); 120-4.25; 135-6(b),(g); 128-28(h); 135-6(u); 128-28(v); 126-5(c14); 135-7(g); 128-29(g); 135-6.1; 128-33.1; 126-22; 115C-321(b1); 115D-29(c); 153A-98(c3); 160A-168(c3); 135-10.1; 128-32.1; 135-18.8; 135-75; 128-38.3; 120-4.32; 127A-40(h1); S.L. 2015-69, Section 2; 147-68.2; 147-79; 115C-341.2; 115D-25.4; 115C-436; 135-8(j); 128-30(j); 135-1(7a); 128-21(7a); 135-109.

Primary Sponsors: McNeill, Ross

Type of Bill: Public Bill

SECTION ONE: FRSWPF Line of Duty Death Survivorship Benefit/Name Beneficiaries

Provides a survivorship benefit for members of the Firefighters' & Rescue Squad Workers' Pension Fund (FRSWPF). The new benefit provides that beneficiaries would receive the same benefit the deceased member would have received beginning when the deceased would have reached age 55 for up to 25 years. The provision also allows members of the FRSWPF to name beneficiaries for return of contributions available upon the death of a member of the fund. Additionally, the provision specifies the order of payments for the return of contributions for a member who does not select a beneficiary first as spouse, then estate. This removes a current requirement that the Retirement System identify all children of a deceased FRSWPF member regardless of their age for a return of contributions. As such, by simplifying the return of contributions, the provision will reduce the administrative complexity and align procedures for this pension fund with the Department's other funds.

SECTION TWO: FRSWPF Overpayments/Applicability of Overpayment Statute of Limitations

Allows the Department to collect overpayments owed to other N.C. pension funds administered by the Department of State Treasurer from members of the FRSWPF who are in receipt of a monthly benefit. Additionally, the provision clarifies a long standing interpretation that the Retirement System overpayment statutes of limitation against civil action do not limit the ability of the state to collect funds from an ongoing monthly benefit.

SECTION THREE: Retirement Age Modernization/Federal Compliance

Sets a minimum retirement age of 50 for members of the state, local and judicial retirement systems first hired on January 1, 2017 or later. It does not affect current employees. This provision is in response to IRS-proposed regulations on the definition of "normal retirement age" for qualified governmental retirement plans. The proposed regulations are found at 81 FR 4599 (Jan. 27, 2016). Normal retirement

age is a concept that is important for a number of purposes, including the fact that in-service distributions are not permitted before normal retirement age, that vesting is required on normal retirement age, and that it provides for the exclusion of health insurance premiums for eligible public safety officers of up to \$3,000 a year under Internal Revenue Code Section 402(l) that applies only after disability or normal retirement age. The proposed regulations state that they will become effective for employees hired during plan years beginning on or after the later of (1) January 1, 2017 or (2) the close of the first regular legislative session of the legislature with the authority to amend the plan that begins on or after the date that is 3 months after the final regulations are published in the Federal Register. Given that uncertainty, the deadline to implement this new federal law could result in the necessity to apply this provision retroactively to employees hired on or after January 1, 2017, the Department believes it is prudent for the General Assembly to act on these proposed regulations during the short session of 2016 to avoid having any possibility providing unclear or inconsistent information to new employees next year.

SECTION FOUR: Fraud Statute Applicability/Enable Compliance Investigations

Provides guidelines and authorization for the Retirement Systems Compliance team that was recommended by the 2013-14 LRC study on *Treasurer Investment Targets and State Employee Retirement Options*. Primarily, this change allows the current fraud investigation statute to be used for compliance audits without first suspecting fraud. The Department is requesting this change in order to conduct compliance audits of agencies without creating a stigma of conducting fraud investigation.

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SECTION FIVE: Anti-Pension Spiking Contribution-Based Benefits Cap Payment Plans

Extends the length of current interest-free payment plans for monies owed to the Retirement System under the anti-pension spiking contribution-based benefit cap from 12 months to up to 15 months to allow agencies more time to correct records and to provide that payment plans may always cross a fiscal year. Optionally offers a payment plan of up to 27 months in length that charges interest at rate equal to the investment return assumption of the Retirement System.

SECTION SIX: Anti-Pension Spiking Contribution-Based Benefits Cap Inflation Adjustment

Changes the time period from calendar year to fiscal year for setting the inflation adjustment to the threshold of average final compensation used to determine the anti-pension spiking contribution-based benefits cap. The initial threshold was set at \$100,000 for calendar year 2015 and was adjusted to \$100,750 for calendar year 2016. It would next be adjusted in July 2017 for inflation covering January 2016-June 2017, and thereafter on a fiscal year basis. This change is requested by the Department to increase the ease of providing advance notice to agencies regarding pension spiking invoices. Additionally, provides a retroactively applicable clarification that the General Assembly intended for the Board of Trustees to implement the Contribution-Based Benefits Cap notwithstanding Chapter 150B of the General Statutes.

SECTION SEVEN: Electronic change for beneficiaries/ten years

Removes statutory prohibition against current state and local employees changing named beneficiaries online for death benefits only if they have more than ten years of service. Current law requires beneficiary changes be made using paper forms if the member has more than 10 years of service. This change will simplify administration of death benefits for the Retirement System and will facilitate the ability of employees to keep their beneficiary designation up to date.

SECTION EIGHT: Retirement Systems Boards of Trustees' Chair Statutes

Clarifies governance statutes of the Retirement Systems by providing that the State Treasurer is the ex-officio Chair of the Teachers' and State Employees' (TSERS) and the Local Governmental Employees' (LGERS) Boards of Trustees and provides that the Director of the Retirement Systems Division is selected by the Treasurer. This statute change is consistent with long-time practice. The Department is recommending this change in advance of the transition to a new Treasurer because current statute could allow the Boards to select two different chairs and two different Directors of the Retirement Systems Division. Further, under the current statute, the state would lack the administrative infrastructure to recognize and compensate a Retirement Director that was not hired by the Treasurer. Further, the provision removes the seat on the TSERS Board designated for a University Employee and replaces that seat with the Director of the Office of State Human Resources.

SECTION NINE: Human Resources Flexibility for Retirement Systems Division Managers

Provides an exemption from the State Human Resources Act for approximately 16 employees in the Retirement Systems Division management roles who possess specialized skills or knowledge necessary for the effective administration of retirement benefits.

SECTION TEN: Legislative Enactment Implementation Arrangement (LEIA)

Provides an incentive to reduce the costs of providing benefits. When the General Assembly passes legislation that reduces the cost of providing retirement benefits, this allows the Board of Trustees to divert a portion of any immediate savings toward implementation of the cost-saving measure by the Retirement System.

SECTION ELEVEN: Public Records Statute for Retirement

Creates new consolidated statutes defining how the public records law relates to retirement records. Currently, the Retirement Systems Division relies on nine different statutes governing groups of public employees and three separate opinions from the Department of Justice to respond to requests for public information regarding all members of the Retirement Systems. This provision would consolidate the laws that apply to retirement records into the retirement statutes. This provision does not make any information that is currently public into private information or vice versa.

SECTION TWELVE: Electronic Cancellation of Retirement Application

Allows the Retirement System to notify a member by electronic means regarding the cancellation of a retirement application due to failure to provide necessary information. Current statute requires regular U.S. mail notification. The Department is requesting this change to enhance the online retirement application process. The Department plans to still use U.S. Mail notification for applications made by paper, but needs this change in order to provide electronic notification regarding online applications.

SECTION THIRTEEN: Require Proof of Authorization for Monthly Deductions

Requires that organizations allowed to make monthly deductions from monthly retirement benefits must provide proof of a retiree’s authorization on request of the Department. Increases the membership threshold for organizations allowed to do this from 2,000 to 10,000 in order to harmonize this statute with the state law limiting provision of addresses. Authorizes local governments that had made arrangements with the Department prior to January 1, 2016, to continue to deduct monthly premiums for retiree health insurance from retiree benefits. Disallows additional local governments from making similar arrangements with the Department.

SECTION FOURTEEN: Technical Correction/Unclaimed Property

Restores section of unclaimed property statute unintentionally repealed in 2015.

SECTION FIFTEEN: Applicability of Deposit Fee from State Funds

Removes \$15 fee for overdrawn checks to the State Banking System for agencies that only have State funds. Currently, the fee may not be paid with state funds and requires that an agency that only has state funds pay the fee from personal funds of the agency’s Chief Financial Officer.

SECTION SIXTEEN: Prevent Counterfeit State Checks

Allows the State Treasurer to protect portions of records regarding outstanding, unpaid state checks, called “warrants,” to the extent that the information contained therein could be used to counterfeit state checks. State Banking System staff have ascertained that there is sufficient information that is public record that could enable a counterfeiter to successfully pass a bad check to a community bank that does business with the State. The State Banking System would reject the check, resulting in a loss for the community bank.

SECTION SEVENTEEN: Collateralization of Deposits/FOD

Updates the statute specifying documents that may be used to collateralize deposits in the State Banking System by allowing the use of letters of credit issued by a Federal Home Loan Bank. This change was requested by the State Banking System staff to simplify administration of the system.

SECTION EIGHTEEN: Purchasing Clarification for Supplemental Retirement Plan

Makes the legal name of the Supplemental Retirement Board of Trustees consistent across all programs administered by the Board and clarify that the 403(b) Program uses the same procurement procedures as the Board uses for the state 401(k) and the 457 plans.

SECTION NINETEEN: Require Pension Spiking Reports be Transmitted to Governing Boards

Requires that chief financial officers of participating employers transmit a copy of pension spiking watch reports to chief executive officers and to governing boards. Because of the bifurcated funding mechanism used for traditional public schools, the chief financial officer must also notify the board of county commissioners of the county in which the local administrative unit is located that the report was received and the number of employees listed in the report.

SECTION TWENTY: Prohibit Benefit Conversions

Prohibits conversion for retirement purposes of additional benefits to salary, such as health, life, or disability plans, so long as the benefits are other than mandated by State law or regulation. Applies only to employees first hired January 1, 2017 or later.

SECTION TWENTY ONE: Reduce Unnecessary Paperwork/Administrative Efficiency

Allows the Retirement System to require that Statement of Income forms be submitted by disability recipients only when the information in the form would be important or useful, or when the member's income has changed. This change provides an administrative efficiency by not requiring submission of forms that have little purpose.

Prepared by Retirement Systems Division Staff on 6/7/2016

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TREASURER

STEVE TOOLE
RETIREMENT SYSTEMS DIRECTOR

Technical Corrections Retirement System/Treasurer HB 1011

The Department of State Treasurer aims to provide public employees and retirees, including teachers, police officers, firefighters, and public servants from all over the state with secure pensions and retirement. This legislative proposal incorporates provisions that will clarify interpretations of current law, conform to federal regulation and increase efficiency of administration of the retirement systems administered by the Department.

Statutes Affected: 58-86-45; 128-25; 128-26(a1); 135-5(g); 128-27(g); 135-5(m2); 128-27(m2); 135-8(b)(5); 128-30(b)(4); 135-8(f); 128-30(g); 135-48.40(d)(13); 147-86.51(b)(3); 147-86.52(c)(3); 147-86.50(b)(4); 147-86.51(d)(4)

Primary Sponsors: Ross, McNeill, and Hardister

Co-Sponsors: Floyd, Gill, Hurley, Reives, R. Turner

Cost: This bill does not materially increase or decrease the liabilities or costs of the Retirement Systems.

Type of Bill: Public Agency Bill requested by the Department of State Treasurer

SECTION ONE: Clarify Service Purchase Provision for FRSWPF

Clarifies wording of the service purchase provision of the Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF) with regard to which cost calculation to use, given the age of the member. The long standing interpretation and administrative practice has been that the state policy set forth in the statute is to encourage members to purchase service when they are younger than 35 years old. To that end, the statute requires the Retirement System to charge members 35 or older more to purchase service. The change in this provision clarifies the wording of the statute regarding the availability of the lower cost calculation to existing, as well as new members of the fund.

SECTION TWO: Repeals Outdated Statute

Repeals a section of the Local Governmental Employees' Retirement System (LGERS) employer participation statutes that is no longer needed because Session Law 2015-168 amended G.S. 128-21 and G.S. 128-26(a) to disallow the granting of retirement service credits for years that employees worked at a local government agency before the agency joined LGERS. The statute being repealed provided an optional procedure for employers to pay for that service credit.

SECTION THREE: Uniformed Services Employment and Reemployment Rights Act (USERRA)

Conforms a service purchase statute in LGERS to federal law related to the treatment of active duty military service and clarifies that the employer's required payment includes the employer and employee portions of the service purchase. The Retirement System has handled these cases correctly under the federal law, but the LGERS statute has not been updated to reflect USERRA.

SECTION FOUR: Beneficiary Selection When Member Dies While Filing For Retirement

Provides that if a member dies after having filed an application for retirement, but before selecting payment options and selecting a beneficiary, the administrator or executor of the member's estate may select the an option and name the beneficiary or beneficiaries. This change clarifies how to handle a situation not explicitly named in the current statute and is consistent with similar statutes.

SECTION FIVE: Clarification of Transfer Benefit Irrevocability

Clarifies long time interpretation and practice that choosing “transfer benefit” is an irrevocable option, just like selecting any other benefit payment option.

SECTION SIX: Typo Correction & Conforming Change to Educational Leave

Corrects a typo in a change made to educational leave for the Teachers’ and State Employees’ Retirement System (TSERS) in Session Law 2015-241 and makes a conforming change to the Local Governmental Employees’ Retirement System (LGERS), in order to simplify communication and administration of the two systems.

SECTION SEVEN: Accounting Fund & Procedure for Penalty Assessment Clarification

Clarifies that funds collected under the anti-pension spiking contribution-based benefit cap will be included in the Pension Accumulation Fund, which is consistent with other required employer payments. Additionally, clarifies that to receive a one-time exception to payment of the penalty for late payment of retirement contributions an agency must make arrangements in advance with the Retirement System.

SECTION EIGHT: Typo Correction in Name of FRSWPF

Corrects spelling of name of the Firefighters’ and Rescue Squad Workers’ Pension Fund (FRSWPF) name in the State Health Plan statute.

SECTION NINE (a): ABLE Program Definition of “Cash”

Clarifies the definition of “cash” in the Achieving a Better Life Experience (ABLE) Program Trust legislation passed in 2015 means “U.S. Dollars.”

SECTION NINE (b): ABLE Procurement Exception

Clarifies that the ABLE procurement exception applies to all professional services needed to start up the program.

SECTION NINE (c): Conforms State ABLE Act to new Federal Law #1 of 2

Conforms the state ABLE act passed in 2015 to changes made in the federal ABLE act by the U.S. Congress after the General Assembly adjourned. This change is necessary to ensure that residents from other states will not be prohibited from participating in the N.C ABLE program. This section repeals language that envisions a distinction between “contracting” and “contracting” states that is no longer needed because of the federal change.

SECTION NINE (d): Conforms State ABLE Act to new Federal Law #2 of 2

Similar to Section eleven, this provision conforms the state ABLE act passed in 2015 to changes made in the federal ABLE act by the U.S. Congress after the General Assembly adjourned. This change is also necessary to ensure that N.C. residents will not be prohibited from participating in the N.C ABLE program. This section repeals language that envisions a distinction between “contracting” and “contracting” states that is no longer needed because of the federal change.