

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

H

2

HOUSE BILL 953
Committee Substitute Favorable 6/8/95

Short Title: State Emp. RIF Rights/Options.

(Public)

Sponsors:

Referred to:

April 12, 1995

A BILL TO BE ENTITLED

AN ACT PROVIDING EXTENDED HEALTH PLAN COVERAGE TO EMPLOYEES WHO ARE SEPARATED FROM EMPLOYMENT DUE TO REDUCTIONS IN FORCE AND OTHERWISE RELATING TO THE RIGHTS AND BENEFITS OF STATE EMPLOYEES SEPARATED FROM STATE EMPLOYMENT DUE TO REDUCTIONS IN FORCE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7.1 reads as rewritten:

"§ 126-7.1. Posting requirement; State employees receive priority ~~consideration.~~ consideration; reduction-in-force rights.

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted within at least the following:

(1) The personnel office of the agency, department, or institution having the vacancy; and

(2) The particular work unit of the agency, department, or institution having the vacancy

in a location readily accessible to employees. If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State

1 Personnel for the purpose of informing current State employees of such vacancy. The
2 State agency, department, or institution may not receive approval from the Office of State
3 Personnel to fill a job vacancy if the agency, department, or institution cannot prove to
4 the satisfaction of the Office of State Personnel that it complied with these posting
5 requirements. The agency, department, or institution which hires any person in violation
6 of these posting requirements shall pay such person when employment is discontinued as
7 a result of such violation for the work performed during the period of time between his
8 initial employment and separation.

9 (a1) State employees to be affected by a reduction in force shall be notified of the
10 reduction in force as soon as practicable, and in any event, no less than 30 days prior to
11 the effective date of the reduction in force.

12 (a2) The State Personnel Commission shall adopt rules to provide that priority
13 consideration for State employees separated from State employment as the result of
14 reductions in force is to enable a State employee's return to career service at a salary
15 grade and salary rate equal to that held in the most recent position. The State Personnel
16 Commission shall provide that a State employee who:

17 (1) Accepts a position at the same salary grade shall be paid at the same
18 salary rate as the employee's previous position.

19 (2) Accepts a position at a lower salary grade than the employee's previous
20 position shall be paid at the same rate as the previous position unless the
21 salary rate exceeds the maximum of the new salary grade. When the
22 salary rate exceeds the maximum of the salary grade, the employee's
23 new salary rate shall be reduced to the maximum of the new salary
24 grade.

25 (b) Subsection (a) of this section does not apply to vacancies which must be filled
26 immediately to prevent work stoppage or the protection of the public health, safety, or
27 security.

28 (c) If a State employee subject to this section:

29 (1) Applies for another position of State employment that would constitute
30 a promotion and;

31 (2) Has substantially equal qualifications as an applicant who is not a State
32 employee

33 then the State employee shall receive priority consideration over the applicant who is not
34 a State employee. This priority consideration shall not apply when the only applicants
35 considered for the vacancy are current State employees.

36 (c1) If a State employee who has been separated due to reduction in force or who
37 has been given notice of imminent separation due to reduction in force:

38 (1) Applies for another position of State employment equal to or lower in
39 salary grade than the position held by the employee at the time of
40 notification or separation; and

41 (2) Is determined qualified for that position

42 then within ~~the separating agency, all State agencies,~~ the State employee shall receive
43 priority consideration over all other applicants ~~including those who are current State~~

1 ~~employees not affected by the reduction in force. Within all other agencies, the State~~
2 ~~employee shall receive priority consideration over other applicants from outside State~~
3 ~~government, but shall receive equal consideration with other applicants who are current~~
4 State employees not affected by the reduction in force. This priority shall remain in
5 effect for a period of 12 months from the date the employee receives notification of
6 separation by reduction in force. State employees separated due to reduction in force
7 shall receive higher priority than other applicants with employment or reemployment
8 priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be
9 considered as equal. The ~~reduction in force~~ reduction-in-force priority created by this
10 subsection shall be administered in accordance with rules promulgated by the State
11 Personnel Commission.

12 (c2) If the applicants for reemployment for a position include current State
13 employees, a State employee with more than 10 years of service shall receive priority
14 consideration over a State employee having less than 10 years of service in the same or
15 related position classification. This reemployment priority shall be given by all State
16 departments, agencies, and institutions with regard to positions subject to this Chapter.

17 (d) 'Qualifications' within the meaning of subsection (c) of this section shall
18 consist of:

- 19 (1) Training or education;
- 20 (2) Years of experience; and
- 21 (3) Other skills, knowledge, and abilities that bear a reasonable functional
22 relationship to the abilities and skills required in the job vacancy applied
23 for."

24 Sec. 2. G.S. 135-40.2 reads as rewritten:

25 "**§ 135-40.2. Eligibility.**

26 (a) The following persons are eligible for coverage under the Plan, on a
27 noncontributory basis, subject to the provisions of G.S. 135-40.3:

- 28 (1) All permanent full-time employees of an employing unit who meet the
29 following conditions:

- 30 a. Paid from general or special State funds, or
- 31 b. Paid from non-State funds and in a group for which his or her
32 employing unit has agreed to provide coverage.

33 Employees of State agencies, departments, institutions, boards, and
34 commissions not otherwise covered by the Plan who are employed in
35 permanent job positions on a recurring basis and who work 30 or more
36 hours per week for nine or more months per calendar year are covered
37 by the provisions of this subdivision.

- 38 (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
39 least one-half of the workdays of each pay period.

- 40 (2) Retired teachers, State employees, members of the General Assembly,
41 and retired State law enforcement officers who retired under the Law
42 Enforcement Officers' Retirement System prior to January 1, 1985.

- 43 (2a) Surviving spouses of:

- 1 a. Deceased retired employees, provided the death of the former
2 plan member occurred prior to October 1, 1986; and
- 3 b. Deceased teachers, State employees, and members of the General
4 Assembly who are receiving a survivor's alternate benefit under
5 any of the State-supported retirement programs, provided the
6 death of the former plan member occurred prior to October 1,
7 1986.
- 8 (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).
- 9 (3a) Employees of the General Assembly, not otherwise covered by this
10 section, as determined by the Legislative Services Commission, except
11 for legislative interns and pages.
- 12 (4) Members of the General Assembly.
- 13 (5) Notwithstanding the provisions of subsection (e) of this section,
14 employees on official leave of absence while completing a full-time
15 program in school administration in an approved program as a Principal
16 Fellow in accordance with Article 5C of Chapter 116 of the General
17 Statutes.
- 18 (6) Notwithstanding the provisions of G.S. 135-40.11, employees formerly
19 covered by the provisions of this section, other than retired employees,
20 who have been employed for 12 or more months by an employing unit
21 and whose jobs are eliminated because of a reduction, in total or in part,
22 in the funds used to support the job or its responsibilities, provided the
23 employees were covered by the Plan at the time of separation from
24 service resulting from a job elimination. Employees covered by this
25 subsection shall be covered for a period of up to 12 months following a
26 separation from service because of a job elimination.
- 27 (b) The following person shall be eligible for coverage under the Plan, on a fully
28 contributory basis, subject to the provisions of G.S. 135-40.3:
- 29 (1) Repealed by Session Laws 1983, c. 761, s. 255.
- 30 (2) Former members of the General Assembly who enroll before October 1,
31 1986.
- 32 (2a) For enrollments after September 30, 1986, former members of the
33 General Assembly if covered under the Plan at termination of
34 membership in the General Assembly.
- 35 (3) Surviving spouses of deceased former members of the General
36 Assembly who enroll before October 1, 1986.
- 37 (3a) Employees of the General Assembly, not otherwise covered by this
38 section, as determined by the Legislative Services Commission, except
39 for legislative interns and pages.
- 40 (3b) For enrollments after September 30, 1986, surviving spouses of
41 deceased former members of the General Assembly, if covered under
42 the Plan at the time of death of the former member of the General
43 Assembly.

- 1 (4) All permanent part-time employees (designated as half-time or more) of
2 an employing unit who meets the conditions outlined in subdivision
3 (a)(1)a above, and who are not covered by the provisions of G.S. 135-
4 40.2(a)(1).
- 5 (4a) Permanent hourly employees as defined in G.S. 126-5(c4) who work
6 less than one-half of the workdays of each pay period.
- 7 (5) The spouses and eligible dependent children of enrolled employees,
8 retirees, former employees covered by the provisions of G.S. 135-
9 40.2(a)(6), and members of the General Assembly.
- 10 (6) Blind persons licensed by the State to operate vending facilities under
11 contract with the Department of Human Resources, Division of Services
12 for the Blind and its successors, who are:
- 13 a. Operating such a vending facility;
- 14 b. Former operators of such a vending facility whose service as an
15 operator would have made these operators eligible for an early or
16 service retirement allowance under Article 1 of this Chapter had
17 they been members of the Retirement System; and
- 18 c. Former operators of such a vending facility who attain five or
19 more years of service as operators and who become eligible for
20 and receive a disability benefit under the Social Security Act
21 upon cessation of service as an operator.
- 22 (7) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(j).
- 23 (8) Surviving spouses of deceased retirees and surviving spouses of
24 deceased teachers, State employees, and members of the General
25 Assembly provided the death of the former Plan member occurred after
26 September 30, 1986, and the surviving spouse was covered under the
27 Plan at the time of death.
- 28 (9) Repealed by Session Laws 1987, c. 857, s. 11.1.
- 29 (10) Any eligible dependent child of the deceased retiree, teacher, State
30 employee, or member of the General Assembly, provided the child was
31 covered at the time of death of the retiree, teacher, State employee, or
32 member of the General Assembly (or was in posse at the time and is
33 covered at birth under this Part), or was covered under the Plan on
34 September 30, 1986. Any eligible spouse or dependent child of a person
35 eligible under subdivision (8) of this subsection if the spouse or
36 dependent child was enrolled before October 1, 1986.
- 37 (11) Notwithstanding the provisions of G.S. 135-40.11, former employees
38 covered by the provisions of G.S. 135-40.2(a)(6), and their spouses and
39 eligible dependent children who were covered by the Plan at the time of
40 the former employees' separation from service pursuant to G.S. 135-
41 40.2(a)(6), following expiration of the former employees' coverage
42 provided by G.S. 135-40.2(a)(6).

1 (c) No person shall be eligible for coverage as an employee or retired employee
2 and as a dependent of an employee or retired employee at the same time. In addition, no
3 person shall be eligible for coverage as a dependent of more than one employee or retired
4 employee at the same time.

5 (d) Former employees who are receiving disability retirement benefits or disability
6 income benefits pursuant to Article 6 of Chapter 135 of the General Statutes, provided
7 the former employee has at least five years of retirement membership service at the time
8 of disability, shall be eligible for the benefit provisions of this Plan, as set forth in this
9 Part, on the same basis as a retired employee. Such coverage shall terminate as of the
10 end of the month in which such former employee is no longer eligible for disability
11 retirement benefits or disability income benefits pursuant to Article 6 of this Chapter.

12 (e) Employees on official leave of absence without pay may elect to continue this
13 group coverage at group cost provided that they pay the full employee and employer
14 contribution through the employing unit during the leave period.

15 (f) For the support of the benefits made available to any member vested at the
16 time of retirement, their spouses or surviving spouses, and the surviving spouses of
17 employees who are receiving a survivor's alternate benefit under G.S. 135-5(m) of those
18 associations listed in G.S. 135-27(a), licensing and examining boards under G.S. 135-1.1,
19 the North Carolina Art Society, Inc., and the North Carolina Symphony Society, Inc.,
20 each association, organization or board shall pay to the Plan the full cost of providing
21 these benefits under this section as determined by the Board of Trustees of the Teachers'
22 and State Employees' Comprehensive Major Medical Plan. In addition, each association,
23 organization or board shall pay to the Plan an amount equal to the cost of the benefits
24 provided under this section to presently retired members of each association, organization
25 or board since such benefits became available at no cost to the retired member.

26 (g) An eligible surviving spouse and any eligible dependent child of a deceased
27 retiree, teacher, State employee, or member of the General Assembly shall be eligible for
28 group benefits under this section without waiting periods for preexisting conditions
29 provided coverage is elected within 90 days after the death of the former plan member.

30 (h) No person shall be eligible for coverage as an employee or retired employee or
31 as a dependent of an employee or retired employee upon a finding by the Executive
32 Administrator or Board of Trustees or by a court of competent jurisdiction that the
33 employee or dependent knowingly and willfully made or caused to be made a false
34 statement or false representation of a material fact in a claim for reimbursement of
35 medical services under the Plan.

36 Sec. 3. This act becomes effective July 1, 1995.