

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1011

Pensions and Retirement/Insurance/State Personnel Committee Substitute Adopted
6/6/95

Short Title: State Employees RIF Rights/Options.

(Public)

Sponsors:

Referred to: Appropriations

May 4, 1995

A BILL TO BE ENTITLED

1 AN ACT PROVIDING EARLY RETIREMENT OPTIONS TO STATE EMPLOYEES
2 WHO ARE SEPARATED FROM EMPLOYMENT DUE TO REDUCTIONS IN
3 FORCE AND OTHERWISE RELATING TO THE RIGHTS AND BENEFITS OF
4 EMPLOYEES SEPARATED FROM STATE EMPLOYMENT DUE TO
5 REDUCTIONS IN FORCE.
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 126-7.1. Posting requirement; State employees receive priority ~~consideration.~~**
10 **consideration; reduction-in-force rights and benefits; severance.**

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

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

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

17 in a location readily accessible to employees. If the decision is made, initially or at any
18 time while the vacancy remains open, to receive applicants from outside the recruiting

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

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

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

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

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

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

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

30 (1) Applies for another position of State employment; 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. 135-5(a) reads as rewritten:

25 "(a) Service Retirement Benefits. –

- 26 (1) Any member may retire upon written application to the Board of
27 Trustees setting forth at what time, as of the first day of a calendar
28 month, not less than one day nor more than 90 days subsequent to the
29 execution of and filing thereof, he desires to be retired: Provided, that
30 the said member at the time so specified for his retirement shall have
31 attained the age of 60 years and have at least five years of membership
32 service or shall have completed 30 years of creditable service.
- 33 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 34 (3) Any member who was in service October 8, 1981, who had attained 60
35 years of age, may retire upon written application to the Board of
36 Trustees setting forth at what time, as of the first day of a calendar
37 month, not less than one day nor more than 90 days subsequent to the
38 execution and filing thereof, he desires to be retired.
- 39 (4) Any member who is a law-enforcement officer, and who attains age 50
40 and completes 15 or more years of creditable service in this capacity or
41 who attains age 55 and completes five or more years of creditable
42 service in this capacity, may retire upon written application to the Board
43 of Trustees setting forth at what time, as of the first day of a calendar

1 month, not less than one day nor more than 90 days subsequent to the
2 execution and filing thereof, he desires to be retired; Provided, also, any
3 member who has met the conditions herein required but does not retire,
4 and later becomes a teacher or an employee other than as a law-
5 enforcement officer shall continue to have the right to commence
6 retirement.

- 7 (5) Any member who is eligible for and is being paid a benefit under the
8 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106
9 shall be deemed a member in service and may not retire under the
10 provisions of this section. Any member who has made written
11 application for long-term or extended short-term benefits under the
12 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106,
13 and who has been rejected by the Plan's Medical Board for a long-term
14 or extended short-term benefit shall have 90 days from the date of
15 notification of the rejection to convert his application to an early or
16 service retirement application, provided that the member meets the
17 eligibility requirements, effective the first day of the month following
18 the month in which short-term disability benefits ended or the first day
19 of the month following the month in which any salary continuation as
20 may be provided in G.S. 135-104 ended, whichever is later.

- 21 (6) Notwithstanding any other provision of law, a member who is separated
22 from service with an employer, other than a local school administrative
23 unit or a community college, due to a reduction in force and who is at
24 least 50 years of age and has at least 25 years of service, shall be
25 eligible for an unreduced retirement allowance, provided that any
26 severance payments to which the member may have been entitled have
27 ceased."

28 Sec. 3. G.S. 135-5(a1) reads as rewritten:

29 "(a1) Early Service Retirement Benefits. – Any member may retire and receive a
30 reduced retirement allowance upon written application to the Board of Trustees setting
31 forth at what time, as of the first day of a calendar month, not less than one day nor more
32 than 90 days subsequent to the execution of and filing thereof, he desires to be retired:
33 Provided, that the said member at the time so specified for his retirement shall have
34 attained the age of 50 years and have at least 20 years of creditable service.
35 Notwithstanding the foregoing, a member who is separated from service with an
36 employer, other than a local school administrative unit or a community college, due to a
37 reduction in force shall be eligible for a reduced retirement allowance if the member is at
38 least 45 years of age and has at least 20 years of service, provided that any severance
39 payments to which the member may have been entitled have ceased. The benefit shall be
40 computed as though the member had attained age 50 and had at least 20 years of
41 creditable service."

42 Sec. 4. G.S. 135-40.2 reads as rewritten:

43 "**§ 135-40.2. Eligibility.**

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

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

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

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

13 (1a) Permanent hourly employees as defined in G.S. 126-5(c4) who work at
14 least one-half of the workdays of each pay period.

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

18 (2a) Surviving spouses of:

- 19 a. Deceased retired employees, provided the death of the former
20 plan member occurred prior to October 1, 1986; and
21 b. Deceased teachers, State employees, and members of the General
22 Assembly who are receiving a survivor's alternate benefit under
23 any of the State-supported retirement programs, provided the
24 death of the former plan member occurred prior to October 1,
25 1986.

26 (3) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1020, s. 29(b).

27 (3a) Employees of the General Assembly, not otherwise covered by this
28 section, as determined by the Legislative Services Commission, except
29 for legislative interns and pages.

30 (4) Members of the General Assembly.

31 (5) Notwithstanding the provisions of subsection (e) of this section,
32 employees on official leave of absence while completing a full-time
33 program in school administration in an approved program as a Principal
34 Fellow in accordance with Article 5C of Chapter 116 of the General
35 Statutes.

36 (6) Former employees eligible under G.S. 126-7.1(a1) during the
37 employee's period of priority consideration.

38 (b) The following person shall be eligible for coverage under the Plan, on a fully
39 contributory basis, subject to the provisions of G.S. 135-40.3:

40 (1) Repealed by Session Laws 1983, c. 761, s. 255.

41 (2) Former members of the General Assembly who enroll before October 1,
42 1986.

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

1 covered at birth under this Part), or was covered under the Plan on
2 September 30, 1986. Any eligible spouse or dependent child of a person
3 eligible under subdivision (8) of this subsection if the spouse or
4 dependent child was enrolled before October 1, 1986.

5 (11) Former employees eligible under G.S. 126-7.1(a1), their spouses, and
6 dependent children, after expiration of the employee's period of priority
7 consideration.

8 (c) No person shall be eligible for coverage as an employee or retired employee
9 and as a dependent of an employee or retired employee at the same time. In addition, no
10 person shall be eligible for coverage as a dependent of more than one employee or retired
11 employee at the same time.

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

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

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

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

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

1 (i) Each State department, agency, or institution shall continue to pay the State
2 Health Plan employee-only premium for employees who are separated due to a reduction
3 in force for the entire period that the employee remains eligible for priority
4 reemployment consideration pursuant to G.S. 126-7.1. At the end of a State employee's
5 eligibility for priority reemployment consideration, the employee and the employee's
6 dependents may opt to remain in the State Health Plan on a self-contributing basis at the
7 same premium rate as active State employees."

8 Sec. 5. G.S. 126-7.1(a2) as added by Section 1 of this act becomes effective
9 July 1, 1995; the remainder of this act becomes effective June 30, 1995. Sections 1 and 4
10 apply to all active State employees subject to the State Personnel Act on or after that date.
11 Sections 2 and 3 apply to eligible members of the Teachers' and State Employees'
12 Retirement System on or after that date.