

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

SESSION LAW 1999-167
SENATE BILL 638

AN ACT TO REDEFINE "EMPLOYEE" AND "EMPLOYER" IN THE LOCAL
GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21(10) reads as rewritten:

"(10) "Employee" shall mean any person who is regularly employed in the service of and whose salary or compensation is paid by the employer as defined in subdivision (11) of this section, whether employed or appointed for stated terms or otherwise, except teachers in the public schools and except such employees who hold office by popular election as are not required to devote a major portion of their time to the duties of their office. "Employee" also means all full-time, paid firemen who are employed by any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds. In all cases of doubt the Board of Trustees shall decide who is an employee."

Section 2. G.S. 128-21(11) reads as rewritten:

"(11) "Employer" shall mean any county, incorporated city or town, the board of alcoholic control of any county or incorporated city or town, the North Carolina League of Municipalities, and the State Association of County Commissioners. ~~"Employer" shall also mean any separate, juristic political subdivision of the State as may be approved by the Board of Trustees upon the advice of the Attorney General.~~ "Employer" also means any fire department that serves a city or county or any part of a city or county and that is supported in whole or in part by municipal or county funds."

Section 3. The Board of Trustees of the North Carolina Local Governmental Employees' Retirement System through the Office of the Attorney General shall request a letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, as to whether the status of the North Carolina Local Governmental Employees' Retirement System as a governmental plan would be adversely affected by the participation of employees affected by this legislation. The request shall be made to the Internal Revenue Service no later than 30 days after the effective date of this act. Fire departments affected by this legislation are eligible for participation in the North Carolina Local Governmental Employees' Retirement System

upon the first day of the calendar quarter following receipt of a favorable letter of determination or ruling.

Section 4. This act is effective when it becomes law.

In the General Assembly read three times and ratified this the 31st day of May, 1999.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 5:38 p.m. this 8th day of June, 1999