

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021**

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HOUSE BILL 1058

Short Title: Ret. & Treasury Tech. Corrections Act of 2022.-AB (Public)

Sponsors: Representatives C. Smith and McNeill (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, Rules, Calendar, and Operations of the House

May 26, 2022

A BILL TO BE ENTITLED

AN ACT MAKING TECHNICAL CORRECTIONS AND OTHER CONFORMING AND CLARIFYING CHANGES TO THE LAWS GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM; THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM; THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM; THE NORTH CAROLINA TEACHERS' AND STATE EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT TRUST; THE ACHIEVING A BETTER LIFE EXPERIENCE PROGRAM; AND THE LOCAL GOVERNMENT COMMISSION.

The General Assembly of North Carolina enacts:

PART I. CHANGES PERTAINING TO THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM

SECTION 1.1. G.S. 135-4(j2) reads as rewritten:

"(j2) Notwithstanding any provision of this Chapter to the contrary on and after January 1, 2023, any member in service with five or more years of membership service may purchase creditable service for service as a member of the General Assembly not otherwise creditable under this section, provided the service is not ~~created~~ credited in the Legislative Retirement Fund nor the Legislative Retirement System, by paying a total lump sum payment. The amount of creditable service purchased under this subsection may not exceed a total of five years. The member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund equal to the full liability increase due to the additional service credits on the basis of the assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement System, except for the following assumptions specific to this calculation: (i) the allowance shall be assumed to commence at the earliest age at which the member could retire on an unreduced retirement allowance and (ii) assumed annual postretirement allowance increases as set by the Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this subsection, an employer may pay all or part of the cost of a service purchase of a member in service. To the extent that the purchase is paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the member, the cost paid by the member shall be credited to the member's annuity savings account. The creditable service of a member who was a member of the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement System, and whose accumulated contributions and reserves are transferred from that System to



1 this System, includes service that was creditable in the Local Governmental Employees'
2 Retirement System, the Consolidated Judicial Retirement System, or the Legislative Retirement
3 System, and membership service with those Retirement Systems is membership service with this
4 Retirement System."

5 **SECTION 1.2.** G.S. 135-5.3(b6) reads as rewritten:

6 "(b6) The financial review will be based on financial statements and independent audit
7 reports ~~held by the Local Government Commission~~ or functionally equivalent ~~financial~~
8 ~~statements and independent audit reports~~ submitted to the Board of Trustees by the charter
9 school."

10
11 **PART II. CHANGES PERTAINING TO THE LOCAL GOVERNMENTAL**
12 **EMPLOYEES' RETIREMENT SYSTEM**

13 **SECTION 2.1.** G.S. 128-24(5)c1. reads as rewritten:

14 "c1. Within 90 days of the end of each month in which a beneficiary is
15 reemployed under the provisions of sub-subdivision c. of this
16 subdivision, each employer shall provide a report for that month on
17 each reemployed beneficiary, including the terms of the
18 reemployment, the date of the reemployment, and the amount of the
19 monthly compensation. If the required report is not received within the
20 required 90 days, the Board may do any or all the following:

21 ...

- 22 3. Require the employer to pay any amounts that the beneficiary
23 would have been required to pay to the Retirement System
24 under ~~sub-subdivision f.~~ sub-subdivision e. of this subdivision
25 had the report been received within the required 90 days.

26 Upon receipt by the employer of notice that any payment is due to the
27 Retirement System under this sub-subdivision, the employer shall
28 remit the payment of the amount due to the Retirement System, in one
29 lump sum, no later than 90 days from the date of the notice.

30 If an employer is required to make payments to the Retirement
31 System under sub-sub-subdivision 2. or sub-sub-subdivision 3. of this
32 sub-subdivision, then (i) the beneficiary shall have no obligation to
33 reimburse the Retirement System for related amounts under
34 sub-subdivisions c. or e. of this subdivision, (ii) the provisions of
35 G.S. 128-31(b) relating to offsetting overpayments against payments
36 made from the Retirement System to the member or beneficiary shall
37 not apply, (iii) the Retirement System shall have no duty under
38 G.S. 143-64.80 to pursue repayment of overpayments from the
39 beneficiary, (iv) the overpayments shall not be considered a debt of
40 the beneficiary under Chapter 105A of the General Statutes, and (v)
41 the beneficiary's effective date of retirement shall be adjusted if the
42 adjustment is required under sub-subdivision e. of this subdivision."

43 **SECTION 2.2** G.S. 128-26(h2) reads as rewritten:

44 "(h2) Notwithstanding any provision of this Chapter to the contrary on and after January 1,
45 2023, any member in service with five or more years of membership service may purchase
46 creditable service for service as a member of the General Assembly not otherwise creditable
47 under this section, provided the service is not ~~created~~ credited in the Legislative Retirement Fund
48 nor the Legislative Retirement System, by paying a total lump sum payment. The amount of
49 creditable service purchased under this subsection may not exceed a total of five years. The
50 member shall purchase this service by paying a lump sum amount to the Annuity Savings Fund
51 equal to the full liability increase due to the additional service credits on the basis of the

1 assumptions used for the purposes of the actuarial valuation of the liabilities of the Retirement
2 System, except for the following assumptions specific to this calculation: (i) the allowance shall
3 be assumed to commence at the earliest age at which the member could retire on an unreduced
4 retirement allowance and (ii) assumed annual postretirement allowance increases as set by the
5 Board of Trustees upon the advice of the consulting actuary. Subject to the requirements of this
6 subsection, an employer may pay all or part of the cost of a service purchase of a member in
7 service. To the extent that the purchase is paid by the employer, the cost paid by the employer
8 shall be credited to the pension accumulation fund. To the extent that the purchase is paid by the
9 member, the cost paid by the member shall be credited to the member's annuity savings account."

10 **SECTION 2.3.** G.S. 128-27 reads as rewritten:

11 "**§ 128-27. Benefits.**

12 ...

13 (e) Reexamination of Beneficiaries Retired on Account of Disability. –

14 Once each year during the first five years following retirement of a member on a disability
15 allowance, and once in every three-year period thereafter, the Board of Trustees may, and upon
16 his application shall, require any disability beneficiary who has not yet attained the age of 60
17 years to undergo a medical examination, such examination to be made at the place of residence
18 of said beneficiary or other place mutually agreed upon, by the physician or physicians
19 designated by the Board of Trustees. Should any disability beneficiary who has not yet attained
20 the age of 60 years refuse to submit to at least one medical examination in any such year by a
21 physician or physicians designated by the Board of Trustees, his allowance may be discontinued
22 until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in
23 and to his pension may be revoked by the Board of Trustees.

24 ...

25 (4) As a condition to the receipt of the disability retirement allowance provided
26 for in ~~G.S. 128-27(d), (d1), (d2) and (d3)~~ subsections (d) through (d4) of this
27 section each member retired on a disability retirement allowance shall, on or
28 before April 15 of each calendar year, provide the Board of Trustees with a
29 statement of his or her income received as compensation for services,
30 including fees, commissions or similar items, and income received from
31 business, for the previous calendar year. Such statement shall be filed on a
32 form as required by the Board of Trustees. The benefit payable to a beneficiary
33 who does not or refuses to provide the information requested within 120 days
34 after such request shall not be paid a benefit until the information so requested
35 is provided, and should such refusal or failure to provide such information
36 continue for 180 days after such request, the right of a beneficiary to a benefit
37 under the Article may be terminated.

38 The Director of the State Retirement Systems shall contact any State or
39 federal agency which can provide information to substantiate the statement
40 required to be submitted by this subdivision and may enter into agreements
41 for the exchange of information.

42 ...

43 (k1) Discretionary One-Time Pension Supplements. – As of December 31 of each year
44 after 2020, the ratio (R) of the Consumer Price Index to such index one year earlier shall be
45 determined, and each beneficiary on the retirement rolls as of ~~July 1~~ September 1 of the calendar
46 year of determination shall be entitled to have a one-time pension supplement paid during
47 October of the same calendar year; provided that any such one-time pension supplement shall be
48 contingent upon a determination by the Board of Trustees under subsection (k) of this section
49 that a permanent increase in benefits will not be paid during the same fiscal year as the one-time
50 pension supplement, but the total fund is providing sufficient investment gains to cover the
51 additional actuarial liabilities on account of such one-time pension supplement. The

1 determination of whether there are sufficient investment gains to cover the one-time pension
2 supplement shall reside exclusively within the discretion of the Board of Trustees and shall be
3 informed by the findings within the annual actuarial valuation reports. In considering whether to
4 grant a one-time pension supplement, the Board of Trustees shall take into account both the rate
5 of inflation as determined by the Consumer Price Index and the record of investment gains or
6 losses during the preceding three-year period. The amount of the one-time pension supplement
7 shall be calculated as a percentage of the annual retirement allowance, where the percentage used
8 is the ratio (R) calculated to the nearest tenth of one per centum (1/10 of 1%), but not more than
9 four per centum (4%).

10 A surviving annuitant of a beneficiary shall be provided a one-time pension supplement under
11 this subsection, when and if payable, calculated using the same per centum.

12 Any supplement granted under this subsection shall be a one-time pension supplement and
13 not a permanent increase in benefits. If the beneficiary dies before payment of the one-time
14 pension supplement is made, then the payment shall be payable to the member's estate or legal
15 representative. No beneficiary shall be deemed to have acquired a vested or contractual right or
16 entitlement to any future one-time pension supplement under this subsection.

17"

18 19 **PART III. CHANGES PERTAINING TO THE CONSOLIDATED JUDICIAL** 20 **RETIREMENT SYSTEM**

21 **SECTION 3.1.** G.S. 135-60(a) reads as rewritten:

22 "(a) Upon retirement for disability in accordance with G.S. 135-59, a member shall
23 receive a disability retirement allowance computed and payable as provided for service
24 retirement in ~~G.S. 135-58(a2)~~ subsection (a6) of G.S. 135-58, except that the member's creditable
25 service shall be taken as the creditable service ~~he-the member~~ would have had ~~had he-if the~~
26 member had continued in service to the earliest date ~~he-the member~~ could have retired on an
27 unreduced service retirement allowance as a member in the same division of the General Court
28 of Justice in which ~~he-the member~~ was serving on ~~his-the member's~~ disability retirement date."
29

30 **PART IV. CHANGES PERTAINING TO THE NORTH CAROLINA TEACHERS' AND** 31 **STATE EMPLOYEES' BENEFIT TRUST AND BENEFITS PROVIDED UNDER THAT** 32 **TRUST**

33 **SECTION 4.1.** G.S. 120-4.27 reads as rewritten:

34 "**§ 120-4.27. Death benefit.**

35 ...

36 The death benefit provided by this section shall be designated a group life insurance benefit
37 payable under an employee welfare benefit plan that is separate and apart from the Retirement
38 System but under which the members of the Retirement System shall participate and be eligible
39 for group life insurance benefits. The Board of Trustees is authorized to provide the death benefit
40 in the form of group life insurance either by purchasing a contract or contracts of group life
41 insurance with any life insurance company or companies licensed and authorized to transact
42 business in the State of North Carolina for the purpose of insuring the lives of qualified members
43 in service, or by establishing or affiliating with a separate trust ~~fund-qualified under Section~~
44 ~~501(e)(9) of the Internal Revenue Code of 1954, as amended.~~ fund.

45"

46 **SECTION 4.2.** G.S. 128-27(l) reads as rewritten:

47 "(l) **Death Benefit Plan.** – The provisions of this subsection shall become effective for any
48 employer only after an agreement to that effect has been executed by the employer and the
49 Director of the Retirement System. There is hereby created a Group Life Insurance Plan
50 (hereinafter called the "Plan") which is established as an employee welfare benefit plan that is
51 separate and apart from the Retirement System and under which the members of the Retirement

1 System shall participate and be eligible for group life insurance benefits. The Plan shall be part
2 of the North Carolina Teachers' and State Employees' Benefit Trust, as established under
3 G.S. 135-7(g). All receipts, transfers, appropriations, contributions, investment earnings, and
4 other income belonging to the Plan shall be deposited in the Benefit Trust. All benefits and
5 expenses against the Plan shall be disbursed from the Benefit Trust. Employer and non-employer
6 contributions to the Benefit Trust and earnings on those contributions are irrevocable. The assets
7 of the Benefit Trust are dedicated to providing benefits to members and beneficiaries in
8 accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject to the
9 claims of creditors of the employees and non-employees making contributions to the Benefit
10 Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and
11 administrators, and are not subject to the claims of creditors of members and beneficiaries.
12 Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the
13 Fund as approved by the Board of Trustees.

14 ...

15 Notwithstanding the above provisions, the Board of Trustees may and is specifically
16 authorized to provide the death benefit according to the terms and conditions otherwise appearing
17 in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of
18 group life insurance with any life insurance company or companies licensed and authorized to
19 transact business in this State for the purpose of insuring the lives of members in service, or (ii)
20 by establishing a separate trust fund ~~qualified under section 501(c)(9) of the Internal Revenue~~
21 ~~Code of 1954, as amended,~~ for such purpose. To that end the Board of Trustees is authorized,
22 empowered and directed to investigate the desirability of utilizing group life insurance by either
23 of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund
24 is established, it shall be operated in accordance with rules and regulations adopted by the Board
25 of Trustees and all investment earnings on the trust fund shall be credited to such fund.

26"

27 **SECTION 4.3.** G.S. 135-5(l) reads as rewritten:

28 "(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan (hereinafter
29 called the "Plan") which is established as an employee welfare benefit plan that is separate and
30 apart from the Retirement System and under which the members of the Retirement System shall
31 participate and be eligible for group life insurance benefits. The Plan shall be part of the North
32 Carolina Teachers' and State Employees' Benefit Trust, as established under G.S. 135-7(g). All
33 receipts, transfers, appropriations, contributions, investment earnings, and other income
34 belonging to the Plan shall be deposited in the Benefit Trust. All benefits and expenses against
35 the Plan shall be disbursed from the Benefit Trust. Employer and non-employer contributions to
36 the Benefit Trust and earnings on those contributions are irrevocable. The assets of the Benefit
37 Trust are dedicated to providing benefits to participants, surviving spouses, and the members'
38 estates in accordance with the Plan's benefit terms. The assets of the Benefit Trust are not subject
39 to the claims of creditors of the employees and non-employees making contributions to the
40 Benefit Trust, are not subject to the claims of any creditors of the Benefit Trust's trustees and
41 administrators, and are not subject to the claims of creditors of members and beneficiaries.
42 Benefit Trust assets may be used for reasonable expenses to administer benefits provided by the
43 Fund as approved by the Board of Trustees.

44 ...

45 Notwithstanding the above provisions, the Board of Trustees may and is specifically
46 authorized to provide the death benefit according to the terms and conditions otherwise appearing
47 in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of
48 group life insurance with any life insurance company or companies licensed and authorized to
49 transact business in this State for the purpose of insuring the lives of members in service, or (ii)
50 by establishing a separate trust fund ~~qualified under Section 501(c)(9) of the Internal Revenue~~
51 ~~Code of 1954, as amended,~~ for such purpose. To that end the Board of Trustees is authorized,

1 empowered and directed to investigate the desirability of utilizing group life insurance by either
 2 of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund
 3 is established, it shall be operated in accordance with rules and regulations adopted by the Board
 4 of Trustees and all investment earnings on the trust fund shall be credited to such fund.

5"

6 **SECTION 4.4.** G.S. 143-166.60 reads as rewritten:

7 "**§ 143-166.60. Separate insurance benefits plan for law-enforcement officers.**

8 ...

9 (b) The Boards of Trustees of the Teachers' and State Employees' Retirement System and
 10 the Local Governmental Employees' Retirement System shall jointly administer the Plan and
 11 shall, under the terms and conditions otherwise appearing in this Article, provide Plan benefits
 12 either (i) by establishing a separate trust fund ~~in conformance with Section 501(e)(9) of the~~
 13 ~~Internal Revenue Code of 1954 as amended~~ or, (ii) by causing the Plan to affiliate with a master
 14 trust, the North Carolina Teachers' and State Employees' Benefits Trust, providing the same
 15 benefits for participants. Employer and non-employer contributions to the Benefit Trust and
 16 earnings on those contributions are irrevocable. The assets of the Benefit Trust are dedicated to
 17 providing benefits to participants, surviving spouses, participants' estates, and persons named by
 18 the participant to receive the benefit. The assets of the Benefit Trust are not subject to the claims
 19 of creditors of the employees and non-employees making contributions to the Benefit Trust, are
 20 not subject to the claims of any creditors of the Benefit Trust's trustees and administrators, and
 21 are not subject to the claims of creditors of participants. Benefit Trust assets may be used for
 22 reasonable expenses to administer benefits provided by the Fund as approved by the Board of
 23 Trustees.

24 ...

25 (e) The insurance benefit of the Plan on account of the death of a participant shall be
 26 payable to the surviving spouse of the participant or otherwise to the participant's estate;
 27 provided, should a participant instruct the Board of Trustees in writing that the participant does
 28 not wish these benefits to be paid to his or her spouse or estate, then the benefits shall be paid to
 29 the person or persons as the participant may name for this purpose. The life insurance benefits
 30 shall be payable only on account of participants in the Plan for six or more months or, if an
 31 actively employed officer, at any time after employment if death results from an accident. ~~The~~
 32 ~~accident and sickness disability insurance benefits shall be payable to a participant at any time~~
 33 ~~after becoming a participant in the Plan.~~

34"

35
 36 **PART V. CHANGES PERTAINING TO THE ACHIEVE A BETTER LIFE**
 37 **EXPERIENCE (ABLE) PROGRAM**

38 **SECTION 5.1.** G.S. 147-86.70 reads as rewritten:

39 "**§ 147-86.70. Policy and definitions.**

40 ...

41 (b) Definitions. – The following definitions apply in this section:

- 42 (1) ABLE account. – An account established and owned by an eligible individual
 43 and maintained under this Article. ~~A parent, sibling, guardian, or agent under~~
 44 ~~a power of attorney~~ An authorized representative may act on behalf of an
 45 account owner.
- 46 (2) Account owner. – The person who enters into an ABLE savings agreement
 47 pursuant to the provisions of this Article. The account owner must be the
 48 designated beneficiary. An authorized representative may act on behalf of the
 49 account owner.

(2a) Authorized representative. – An individual or entity authorized to open or manage an ABLE account on behalf of an account owner under the provisions of the federal ABLE Act and federal regulations promulgated under the Act.

...."

SECTION 5.2. G.S. 147-86.71 reads as rewritten:

"§ 147-86.71. ABLÉ Program.

(a) Achieving a Better Life Experience (ABLE) Program Trust. – There is established an ABLÉ Program Trust to be administered by the ABLÉ Program Board of Trustees established in G.S. 147-86.72 to enable contributors to save funds to meet the costs of the qualified disability expenses of eligible individuals. The Board shall administer the ABLÉ Program Trust in compliance with the federal ABLÉ Act and federal regulations promulgated under the Act.

(b) Accounts. – The following provisions apply to an ABLÉ account:

(1) An account owner or ~~contributor~~ authorized representative may establish an account by making an initial contribution to the ABLÉ Program Trust, signing an application form approved by the Board or its designee, and naming the designated beneficiary. ~~If the contributor is not the account owner, the account owner or the account owner's parent, sibling, guardian, trustee, or agent shall also sign the application form.~~

...

(d) Limitations. – The Board, in administering the ABLÉ Program Trust, shall ensure each of the following:

...

(9) ~~A parent, sibling, trustee, or guardian appointed as a signatory~~ An authorized representative of an ABLÉ account does not have or acquire any beneficial interest in the account and administers the account for the benefit of the designated beneficiary."

SECTION 5.3. G.S. 147-86.73 reads as rewritten:

"§ 147-86.73. Administration of ABLÉ Program.

...

(b) Disclaimer. – Nothing in this section shall be construed to create any obligation of the State Treasurer, the Board, the State, or any agency or instrumentality of the State to guarantee for the benefit of any ~~parent, authorized representative,~~ other interested party, or designated beneficiary the rate of return or other return for any contribution to the ABLÉ Program Trust and the payment of interest or other return on any contribution to the ABLÉ Trust Fund.

...."

PART VI. CHANGES PERTAINING TO THE LOCAL GOVERNMENT COMMISSION

SECTION 6.1. G.S. 160A-17.2 is repealed.

PART VII. EFFECTIVE DATE

SECTION 7.1. This act becomes effective July 1, 2022.