

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 729
Pensions and Retirement and Aging Committee Substitute Adopted 4/19/23

Short Title: CBBC Working Group Changes.

(Public)

Sponsors:

Referred to:

April 10, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE ANTI-PENSION SPIKING CONTRIBUTION-BASED BENEFIT
3 CAP LAW FOR SCHOOL SYSTEMS AS BROUGHT FORWARD BY THE WORKING
4 GROUP ESTABLISHED BY S.L. 2021-72 AND TO PROVIDE ADDITIONAL TOOLS
5 TO RESOLVE DISPUTED APPLICATIONS OF THE ANTI-PENSION SPIKING LAWS

6 The General Assembly of North Carolina enacts:

7 SECTION 1.(a) G.S. 135-8 reads as rewritten:

8 "§ 135-8. Method of financing.

9 ...

10 (f) Collection of Contributions. –

11 ...

12 (2) The collection of employers' contributions shall be made as follows:

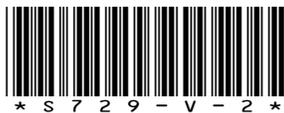
13 ...

14 f1. A public school unit is not required to pay an additional contribution
15 calculated under G.S. 135-4(jj) for the retirement of a public school
16 employee if, within 12 months of the assessment, the public school
17 unit certifies, on a form approved by the Board of Trustees, to all of
18 the following:

19 1. The retiree's service, during the period used to compute the
20 retiree's average final compensation, was in a position or
21 positions where State law or regulation mandates the specific
22 dollar amount that must be paid from State funds to an
23 employee in that position or positions or the retiree served a
24 minimum of 12 years in a position for which State law or
25 regulation mandates a specific dollar amount that must be paid
26 from State funds to an employee in that position or positions.

27 2. The greatest local supplement amount paid to the retiree for a
28 school year during the period used to calculate the employee's
29 average final compensation did not exceed twenty percent
30 (20%) of the salary paid to the retiree from State funds for the
31 same school year.

32 f2. If a public school unit certifies to sub-sub-subdivision f1.1. of this
33 subdivision but not to sub-sub-subdivision f1.2. of this subdivision,
34 the additional contribution calculated under G.S. 135-4(jj) will be
35 adjusted proportionately based on the extent to which the greatest local
36 supplement amount paid to the retiree for a school year during the



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1 period used to calculate the retiree's average final compensation
2 exceeded twenty percent (20%) of the salary paid to the retiree from
3 State funds for the same school year, as follows:

- 4 1. If the greatest local supplement amount paid to the retiree for
5 a school year during the period used to calculate the average
6 final compensation exceeded the salary paid from State funds
7 for the same school year by more than twenty percent (20%),
8 but less than fifty percent (50%), then the employer pays fifty
9 percent (50%) of additional contribution.
- 10 2. If the greatest local supplement amount paid to the retiree for
11 a school year during the period used to calculate the average
12 final compensation exceeded the salary paid from State funds
13 for the same school year by at least fifty percent (50%), then
14 the employer pays one hundred percent (100%) of additional
15 contribution.

16"

17 **SECTION 1.(b)** This section becomes effective July 1, 2023.

18 **SECTION 2.(a)** The Department of State Treasurer is authorized to resolve any legal
19 actions currently pending against the State regarding the anti-pension spiking contribution-based
20 benefit cap established in G.S. 135-5(a3), with respect to the amount and terms of payment,
21 within the framework established by G.S. 135-8(f)(2).

22 Any additional contribution owed by a school board under G.S. 135-5(a3) and
23 G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) on or
24 after January 1, 2021, shall be calculated and paid in accordance with G.S. 135-8(f)(2).

25 For any additional contribution owed by a school board under G.S. 135-5(a3) and
26 G.S. 135-8(f)(2)f. for which the Retirement System sent notice pursuant to G.S. 135-4(jj) during
27 the litigation pause established by Section 3.2 of S.L. 2021-72, and extended by Section 1(a) of
28 S.L. 2022-70, the employer contribution rate shall not be adjusted, as required by
29 G.S. 135-8(f)(5), before the fiscal year beginning July 1, 2024.

30 Prior to September 1, 2023, the Retirement System shall not request an interception
31 of State appropriations pursuant to G.S. 135-8(f)(3) for unpaid contributions attributable to
32 retirements that occurred between July 1, 2021, and June 30, 2023.

33 **SECTION 2.(b)** This section is effective when it becomes law.

34 **SECTION 3.(a)** G.S. 135-6 is amended by adding a new subsection to read:

35 "(u) Notwithstanding G.S. 114-2.3 and G.S. 147-17, the Treasurer may designate legal
36 counsel, including private counsel, to represent the interests of the administration of benefit
37 programs under this Chapter."

38 **SECTION 3.(b)** This section becomes effective July 1, 2023.

39 **SECTION 4.** Except as otherwise provided, this act is effective when it becomes
40 law.