

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2021**

**SESSION LAW 2022-70**  
**HOUSE BILL 177**

AN ACT TO EXTEND THE PENSION-SPIKING LITIGATION PAUSE AND THE REPORT DEADLINE AND TO CLARIFY REQUIREMENTS FOR PARTICIPATION IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR ELIGIBLE EMPLOYERS THAT DO NOT HAVE TAXING AUTHORITY.

The General Assembly of North Carolina enacts:

**SECTION 1.(a)** Section 3.2 of S.L. 2021-72 reads as rewritten:

"**SECTION 3.2.** Notwithstanding any provision of law to the contrary, from the period beginning on the effective date of this act and ending on June 30, ~~2022, 2023~~, local boards of education are prohibited from filing any legal actions against the State, including contested case actions filed under Article 3 of Chapter 150B of the General Statutes, regarding the anti-pension-spiking contribution-based benefit cap established in G.S. 135-5(a3). Any applicable statute of limitations is hereby tolled from the period beginning on the effective date of this act and ending on June 30, ~~2022, 2023~~. During the ~~one-year~~ litigation pause, the Retirement System shall not request an interception of State appropriations pursuant to G.S. 135-8(f)(3) for unpaid contributions attributable to an assessment for a CBBC liability that occurs more than 14 months after the effective retirement date of the member. Prior to September 1, 2023, the Retirement System shall not request an interception of State appropriations pursuant to G.S. 135-8(f)(3) for unpaid contributions attributable to retirements that occurred between July 1, 2021, and June 30, 2022."

**SECTION 1.(b)** Section 4 of S.L. 2021-72 reads as rewritten:

"**SECTION 4.(a)** The N.C. Department of State Treasurer and the N.C. School Boards Association shall convene a working group to review the anti-pension-spiking contribution-based benefit cap established. The working group may produce findings and recommendations on the following issues:

- (1) Reducing the incidence of future litigation regarding the anti-pension-spiking contribution-based benefit cap;
- (2) Reducing the incidence of unfunded pension liabilities associated with compensation decisions;
- (3) Assessing the feasibility of using mediation, arbitration, or non-jury trials to settle disputes with local boards of education and other entities regarding the anti-pension-spiking contribution-based benefit cap; and
- (4) Any other issues the working group wishes to address.

"**SECTION 4.(b)** No later than ~~April 1, 2022, December 15, 2022~~, the working group may report its findings and recommended changes to the anti-pension-spiking contribution-based benefit cap to the Joint Legislative Oversight Committee on General Government."

**SECTION 2.(a)** G.S. 128-23 is amended by adding a new subsection to read:

"(i) Notwithstanding any provision of this section or G.S. 128-21(11), or any other provision of law to the contrary, any eligible employer that is not a taxing authority and is not a participating employer in the Retirement System on September 1, 2023, is not eligible to commence participation in the Retirement System without obtaining a surety as defined in rules



adopted by the Board of Trustees. The rules adopted by the Board of Trustees shall address how an eligible employer that is not a taxing authority will cover a withdrawal liability that could be incurred by the employer if the employer ceases participation in the Retirement System."

**SECTION 2.(b)** The Board of Trustees shall adopt rules necessary to enforce this section by August 1, 2023.

**SECTION 3.** This act becomes effective June 30, 2022.

In the General Assembly read three times and ratified this the 1<sup>st</sup> day of July, 2022.

s/ Phil Berger  
President Pro Tempore of the Senate

s/ Tim Moore  
Speaker of the House of Representatives

s/ Roy Cooper  
Governor

Approved 2:14 p.m. this 8<sup>th</sup> day of July, 2022