

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

H.B. 392  
Mar 24, 2021  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH10166-MGp-83

Short Title: Ret. Svc. Purchase/Omitted Membership Service. (Public)

Sponsors: Representative Belk.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW FOR THE PURCHASE OF CREDITABLE SERVICE IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR SERVICE IN A PRIOR YEAR WHEN THAT SERVICE WAS ASSUMED TO BE PART-TIME BUT WAS ACTUALLY FULL-TIME SERVICE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-4(v) reads as rewritten:

"(v) Omitted Membership Service. – A member who had service as an employee as defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and who was omitted from contributing membership through error may be allowed membership service, after submitting clear and convincing evidence of the error, as follows:

- (1) Within 90 days of the omission, by the payment of employee and employer contributions that would have been paid; or
- (2) After 90 days and prior to three years of the omission, by the payment of the employee and employer contributions that would have been paid plus interest compounded annually at a rate equal to the greater of the average yield on the pension accumulation fund for the preceding calendar year or the actuarial investment rate-of-return assumption, as adopted by the Board of Trustees; or
- (3) After three years of the omission, by the payment of an amount equal to the full cost of the service credits calculated on the basis of the assumptions used for the purposes of the actuarial valuation of the system's liabilities, and shall take into account the additional retirement allowance arising on account of such additional service credit commencing at the earliest age at which a member could retire on an unreduced retirement allowance, as determined by the Board of Trustees upon the advice of the consulting actuary, plus an administrative fee to be set by the Board of Trustees. Notwithstanding the foregoing provisions of this subdivision that provide for the purchase of service credits, the terms "full cost", "full liability", and "full actuarial cost" include assumed annual post-retirement allowance increases, as determined by the Board of Trustees, from the earliest age at which a member could retire on an unreduced service allowance.

Nothing contained in this subsection shall prevent an employer or member from paying all or a part of the cost of the omitted membership service; and to the extent paid by the employer, the cost paid by the employer shall be credited to the pension accumulation fund; and to the extent paid by the member, the cost paid by the members shall be credited to the member's



1 annuity savings account; provided, however, an employer does not discriminate against any  
2 member or group of members in his employ in paying all or any part of the cost of the omitted  
3 membership service. Upon request from an employee, an employer shall provide written  
4 notification of the total hours worked in the preceding 12 months to an employee in a position  
5 classified as part-time. An employer shall provide a copy of the notification to the Retirement  
6 Systems Division upon request. In the event that an employee was classified as part-time in error  
7 and was not eligible to earn membership service due to that error, and the employee has paid a  
8 lump sum equal to the applicable employee contributions as set forth in subdivision (2) of this  
9 subsection within one year after the omission, the employer shall be required to pay the applicable  
10 employer contributions as set forth in subdivision (2) of this subsection."

11 **SECTION 2.** G.S. 128-26(m) reads as rewritten:

12 "(m) Omitted Membership Service. – A member who had service as an employee as  
13 defined in G.S. 135-1(10) and G.S. 128-21(10) or as a teacher as defined in G.S. 135-1(25) and  
14 who was omitted from contributing membership through error may be allowed membership  
15 service, after submitting clear and convincing evidence of the error, as follows:

- 16 (1) within 90 days of the omission, by the payment of employee and employer  
17 contributions that would have been paid; or
- 18 (2) after 90 days and prior to three years of the omission, by the payment of the  
19 employee and employer contributions that would have been paid plus interest  
20 compounded annually at a rate equal to the greater of the average yield on the  
21 pension accumulation fund for the preceding calendar year or the actuarial  
22 investment rate-of-return assumption, as adopted by the Board of Trustees; or
- 23 (3) after three years of the omission, by the payment of an amount equal to the  
24 full cost of the service credits calculated on the basis of the assumptions used  
25 for the purposes of the actuarial valuation of the System's liabilities, and shall  
26 take into account the additional retirement allowance arising on account of  
27 such additional service credit commencing at the earliest age at which a  
28 member could retire on an unreduced retirement allowance, as determined by  
29 the Board of Trustees upon the advice of the consulting actuary, plus an  
30 administrative fee to be set by the Board of Trustees. Notwithstanding the  
31 foregoing provisions of this subdivision that provide for the purchase of  
32 service credits, the terms "full cost", "full liability", and "full actuarial cost"  
33 include assumed annual post-retirement allowance increases, as determined  
34 by the Board of Trustees, from the earliest age at which a member could retire  
35 on an unreduced service allowance.

36 Nothing contained in this subsection shall prevent an employer or member from paying all  
37 or a part of the cost of the omitted membership service; and to the extent paid by the employer,  
38 the cost paid by the employer shall be credited to the pension accumulation fund; and to the  
39 extent paid by the member, the cost paid by the members shall be credited to the member's  
40 annuity savings account; provided, however, an employer does not discriminate against any  
41 member or group of members in his employ in paying all or any part of the cost of the omitted  
42 membership service. In the event an employer pays all or a part of the full actuarial cost as  
43 determined in subdivision (3) of this subsection, the employer may, at its option, pay such amount  
44 either in a lump sum or by increasing its "accrued liability contribution" for the remainder of its  
45 accrued liability period. In the event an employer has satisfied its accrued liability contribution,  
46 the employer may amortize its portion of the full actuarial cost over a period not to exceed ten  
47 years. The expense of making an actuarial valuation to determine the accrued liability  
48 contribution or the additional accrued liability contribution, required to amortize the portion of  
49 the full actuarial cost paid by the employer, shall be paid by the employer in a lump sum at the  
50 time of the actuarial valuation. Upon request from an employee, an employer shall provide  
51 written notification of the total hours worked in the preceding 12 months to an employee in a

1 position classified as part-time. An employer shall provide a copy of the notification to the  
2 Retirement Systems Division upon request. In the event that an employee was classified as  
3 part-time in error and was not eligible to earn membership service due to that error, and the  
4 employee has paid a lump sum equal to the applicable employee contributions as set forth in  
5 subdivision (2) of this subsection within one year after the omission, the employer shall be  
6 required to pay the applicable employer contributions as set forth in subdivision (2) of this  
7 subsection."

8           **SECTION 3.** This act becomes effective January 1, 2022, and applies to the purchase  
9 of service for work performed on or after January 1, 2021.