

## **Reemployed Retired Teachers, Exempt from the Earnings Cap - Questions & Answers, Revised 9/1/05**

The 2005 Continuing Budget (House Bill 1630) extends the provisions for reemploying retired teachers to June 30, 2007. Senate Bill 622, the 2005 Appropriations Act, (as amended by House Bill 320) addresses the employment of retirees exempt from the cap. The questions and answers are intended to clarify the requirements; however, here are some key points:

1. Covered Salaries is defined as the base salary paid to the reemployed retired teacher.
2. The LEA is responsible for these payments and the payments should **not** go through payroll. The LEA has the following options:
  - a. Pay the individual the full certified salary allowable, based on the State Salary Schedule and pay 11.70% of this certified salary from local funds.
  - b. Pay the individual an amount less than the full certified salary and use the difference between the negotiated salary and the amount on the State Salary Schedule to pay the 11.70%.
  - c. A combination of the two above.

Salary for reemployed retirees exempt from the cap must be coded to object code 128.

The 11.70% must be paid as a general expense check coded to 5910-XXX-228 and sent to the retirement system on a monthly basis.

### **For example**

A negotiated salary of \$41,040 for a 30 year teacher with a bachelor's degree (Certified Salary of \$45,840).

### **Monthly**

1-5100-001-128 \$4,104.00

1-5910-001-228 \$ 480.00

Total \$4,584.00 = total allowable certified rate.

### **1. When must payment of the 11.70% contribution to the Retirement System begin?**

The change was effective July 1, 2004 and was continued effective July 1, 2005. Local school administrative units are to make payments and to report monthly to the Retirement Systems Division on payments of 11.70%.

Initially the reporting will need to be manual.

1. Pull forms RET111 and RET111S from Retirement's website for use until a new reporting form is designed.
2. Record the SSN, Name, and salary on the Form RET111.
3. On the Form RET111S show the total salaries reported and multiply by 11.70%. Send a separate check for the 11.70%, (do not commingle with the "regular" contributions report).
4. On the RET111 and RET111S show the employer code that you already have, i.e. Wake County Schools - 39200.

When programming is ready Retirement will assign a new Active Retirement number for each person and possibly new employer codes. Retirement will communicate changes as they occur.

## **2. Can the employer deduct the 11.70% retirement contribution from the teachers' pay?**

No, the employer is required to make the contribution; it is not an employee contribution.

## **3. Can retired teachers who are employed exempt from the cap be paid less than the salary schedule?**

Yes, school systems can pay the retired teachers less than the salary schedule. G.S. 115C-316(d) says, "A local board of education may pay a retired teacher, as that term is defined in G.S. 115C-325(a)(5a) no more than the employee would have received on the teacher salary schedule, excluding longevity, had the employee not retired."

## **4. Can State funds be used to pay the 11.70% contribution to the Teachers' and State Employees' Retirement System or can only local funds be used?**

The LEAs may use State funds to pay the 11.70% contribution to the Retirement System, provided the total of the salary paid the retired (State funded) teacher plus the 11.70% contribution does not exceed the scheduled salary for the experience and qualifications of the retired teacher. Any excess must be paid from local funds.

## **5. If a teacher is paid from a dollar allotment (e.g. PRC 032, PRC 054, and PRC 034) is the school system required to pay the 11.70%?**

Yes. However, even when dollar allotments are used, payments in excess of the scheduled salary must be made from local funds.

## **6. How is the 11.70% contribution handled for a reemployed teacher who is funded from multiple sources or from non-state funds?**

Each funding source is responsible for a pro-rata share of the 11.70% of salary contribution to the Retirement System.

## **7. Can a retired teacher volunteer to teach in a vacant teaching position while meeting the 6-month requirements?**

No.

# **REEMPLOYMENT OF RETIRED PUBLIC SCHOOL TEACHERS**

## **Relevant Legislation**

Senate Bill 622, the 2005 Appropriations Act, CONFORM RETIREE RETURN TO TEACHING BENEFIT TO IRS GUIDELINES/CLARIFY DEFINITION OF RETIREMENT, Section 29.28, as amended by House Bill 320, extends and modifies the provisions regarding retired teachers returning to the classroom without loss of retirement benefits to June 30, 2007. The legislation adds a requirement for a complete 6-month break in service preceding reemployment to teach in a full or part-time position and extends the requirement that the employing unit contribute 11.70% of the salaries of these teachers to the Retirement System. The wording of the legislation is:

**SECTION 29.28.(a)** G.S. 135-3(8)c. reads as rewritten:

"c. Should a beneficiary who retired on an early or service retirement allowance under this Chapter be reemployed, or otherwise engaged to perform services, by an employer participating in the Retirement System on a part-time, temporary, interim, or on a fee-for-service basis, whether contractual or otherwise, and if such beneficiary earns an amount during the 12-month period immediately following the effective date of retirement or in any calendar year which exceeds fifty percent (50%) of the reported compensation, excluding terminal payments, during the 12 months of service preceding the effective date of retirement, or twenty thousand dollars (\$20,000), whichever is greater, as hereinafter indexed, then the retirement allowance shall be suspended as of the first day of the month following the month in which the reemployment earnings exceed the amount above, for the balance of the calendar year. The retirement allowance of the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S. 135-3(8)c., who has been retired at least six months and has not been employed in any capacity with a public school for at least six months immediately preceding the effective date of reemployment, shall not include earnings while the beneficiary is employed to teach ~~on permanent full-time basis in a permanent full-time or part-time capacity that exceeds fifty percent (50%) of the applicable workweek~~ in a public school. The Department of Public Instruction shall certify to the Retirement System that a beneficiary is employed to teach by a local school administrative unit under the provisions of this sub-subdivision and as a retired teacher as the term is defined under the provisions of G.S. 115C-325(a)(5a).

Beneficiaries employed under this sub-subdivision are not entitled to any benefits otherwise provided under this Chapter as a result of this period of employment."

**SECTION 29.28.(b)** G.S. 115C-325(a)(5a) reads as rewritten:

"(5a) "Retired teacher" means a beneficiary of the Teachers' and State Employees' Retirement System of North Carolina who has been retired at least six months, has not been employed in any capacity for at least six months, immediately preceding the effective date of reemployment, is determined by a local board of education or a charter school to have had satisfactory performance during the last year of employment by a local board of education or a charter school, and who is employed to teach as provided in G.S. 135-3(8)c. A retired teacher at a school other than a charter school shall be treated the same as a probationary teacher except that (i) a retired teacher is not eligible for career status and (ii) the performance of a retired teacher who had attained career status prior to retirement shall be evaluated in accordance with a local board of education's policies and procedures applicable to career teachers."

**SECTION 29.28.(c)** Notwithstanding any other provision of law, each local school administrative unit shall pay to the Teachers' and State Employees' Retirement System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths percent (11.70%) as a percentage of covered salaries that the retired teachers, who are exempt from the earnings cap, are being paid. Each local school administrative unit shall report monthly to the Retirement Systems Division on payments made pursuant to this subsection.

Notwithstanding any other provision of law, any portion of the payment made by a local school administrative unit to a reemployed teacher who is exempt from the earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that exceeds the State-supported salary level for that position, shall be paid from local funds.

**SECTION 29.28.(d)** Section 57(c) of S.L. 2004-199 reads as rewritten:

"**SECTION 57.(c)** This section expires June 30, 2007."

**SECTION 29.28.(e)** G.S. 135-1(20) reads as rewritten:

"(20) "Retirement" means the termination of employment and the complete separation from active service with no intent or agreement, express or implied, to return to service. A retirement allowance under the provisions of this Chapter may only be granted upon retirement of a member. In order for a member's retirement to become effective in any month, the member must render no service, including part-time, temporary, substitute, or contractor service, at any time during the six months immediately following the effective date of retirement."

**SECTION 29.28.(f)** Subsections (a) and (b) of this section become effective August 1, 2005. Subsection (e) of this section becomes effective November 1, 2005, but does not apply to participants in The University of North Carolina Phased Retirement Program until June 30, 2007. The remainder of this section becomes effective June 30, 2005.

**HB 1630 2005 Continuing Budget Authority/ Revenue**

AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL IN EFFECT ON JUNE 30, 2005 ....

**PART VII-A. EXTEND THE SUNSET ON RETIRED TEACHERS RETURNING TO THE CLASSROOM**

**SECTION 7A.1.** Subsection (d) of Section 28.24 of S.L. 1998-212, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

"(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005~~, 2007."

**SECTION 7A.2.** The introductory language of Section 67 of S.L. 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

"**SECTION 67.** Effective January 1, 1999, through June 30, ~~2005~~, 2007, G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:"

**SECTION 7A.3.** Subsection (b) of Section 67.1 of S.L. 1998-217, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

"(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005~~, 2007."

**SECTION 7A.4.** Subsection (c) of Section 32.25 of S.L. 2001-424, as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

"**SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June 30, ~~2005~~, 2007."

**SECTION 7A.5.** This part becomes effective June 30, 2005. (Chaptered 6/30/05 SL 2005-144)