

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

H.B. 120  
Feb 14, 2023  
HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH30063-LR-8A

Short Title: Govt. Retirement/No Vacation Leave Spiking. (Public)

Sponsors: Representative Warren.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT LIMITING THE AMOUNT OF VACATION LEAVE CARRIED FORWARD FOR  
3 THE PURPOSE OF CALCULATING AVERAGE FINAL COMPENSATION.

4 The General Assembly of North Carolina enacts:

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

6 "(7a)

7 a. "Compensation" shall mean all salaries and wages prior to any  
8 reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457  
9 of the Internal Revenue Code, not including any terminal payments for  
10 unused sick leave, derived from public funds which are earned by a  
11 member of the Retirement System for service as an employee or  
12 teacher in the unit of the Retirement System for which ~~he~~ the employee  
13 or teacher is performing full-time work. In addition to the foregoing,  
14 "compensation" shall include:

- 15 1. Performance-based compensation (regardless of whether paid  
16 in a lump sum, in periodic installments, or on a monthly basis);
- 17 2. Conversion of additional benefits to salary (additional benefits  
18 such as health, life, or disability plans), so long as the benefits  
19 are other than mandated by State law or regulation;
- 20 3. Payment of tax consequences for benefits provided by the  
21 employer, so long as they constitute an adjustment or increase  
22 in salary and not a "reimbursement of expenses";
- 23 4. Payout of vacation leave so long as such payouts are permitted  
24 by applicable law and regulation;
- 25 5. Employee contributions to eligible deferred compensation  
26 plans; ~~and~~
- 27 6. Effective July 1, 2009, payment of military differential  
28 ~~wages.~~ wages; and
- 29 7. For an employee or teacher who starts earning contributory  
30 retirement service in this retirement system on or after January  
31 1, 2024, only the amount of unused vacation leave accruing  
32 during the 12-month period immediately preceding the  
33 employee's or teacher's retirement shall be counted for the  
34 purpose of calculating average final compensation."

35 SECTION 2. G.S. 128-21(7a) reads as rewritten:



1           "(7a) a.       "Compensation" shall mean all salaries and wages prior to any  
2                               reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457  
3                               of the Internal Revenue Code, not including any terminal payments for  
4                               unused sick leave, derived from public funds which are earned by a  
5                               member of the Retirement System for service as an employee in the  
6                               unit of the Retirement System for which ~~he~~the employee is performing  
7                               full-time work. In addition to the foregoing, "compensation" shall  
8                               include:  
9                               1.       Performance-based compensation (regardless of whether paid  
10                              in a lump sum, periodic installments, or on a monthly basis);  
11                              2.       Conversion of additional benefits to salary (additional benefits  
12                              such as health, life, or disability plans), so long as the benefits  
13                              are other than mandated by State law or regulation;  
14                              3.       Payment of tax consequences for benefits provided by the  
15                              employer so long as they constitute an adjustment or increase  
16                              in salary and not a "reimbursement of expenses";  
17                              4.       Payout of vacation leave so long as such payouts are permitted  
18                              by applicable law and regulation;  
19                              5.       Employee contributions to eligible deferred compensation  
20                              plans;~~and~~  
21                              6.       Effective July 1, 2009, payment of military differential  
22                              ~~wages.~~wages; and  
23                              7.       For an employee who starts earning contributory retirement  
24                              service in this retirement system on or after January 1, 2024,  
25                              only the amount of unused vacation leave accruing during the  
26                              12-month period immediately preceding the employee's  
27                              retirement shall be counted for the purpose of calculating  
28                              average final compensation."

29       **SECTION 3.** This act is effective when it becomes law.