

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1168

Short Title: Reemployed Retirees' Benefits/Age 70.

(Public)

Sponsors: Representatives McLaughlin; Chapin and Gist.

Referred to: Pensions and Retirement.

April 11, 1989

A BILL TO BE ENTITLED

1 AN ACT TO ENSURE THAT RETIRED MEMBERS OF THE LOCAL
2 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO ARE
4 SEVENTY YEARS OF AGE OR OLDER MAY BE REEMPLOYED WITH NO
5 RETIREMENT BENEFITS SUSPENSION.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 128-24(5) reads as rewritten:

9 " (5) The provisions of this subdivision (5) shall apply to any
10 member whose membership is terminated on or after July 1, 1965,
11 and who becomes entitled to benefits hereunder in accordance with
12 the provisions hereof.

- 13 a. Notwithstanding any other provision of this Chapter, any
14 member who separates from service prior to the attainment of
15 the age of 60 years for any reason other than death or retirement
16 for disability as provided in G.S. 128-27(c), after completing 15
17 or more years of creditable service, and who leaves his total
18 accumulated contributions in said System shall have the right to
19 retire on a deferred retirement allowance upon attaining the age
20 of 60 years; provided that such member may retire only upon
21 written application to the Board of Trustees setting forth at what
22 time, not less than one day nor more than 90 days subsequent to
23 the execution and filing thereof, he desires to be retired; and
24 further provided that in the case of a member who so separates

1 from service on or after July 1, 1967, the aforesated
 2 requirement of 15 or more years of creditable service shall be
 3 reduced to 12 or more years of creditable service; and further
 4 provided that in the case of a member who so separates from
 5 service on or after July 1, 1971, or whose account is active on
 6 July 1, 1971, the aforesated requirement of 12 or more years of
 7 creditable service shall be reduced to five or more years of
 8 creditable service. Such deferred retirement allowance shall be
 9 computed in accordance with the provisions of G.S. 128-27(b1),
 10 provided that such benefits will be computed in accordance
 11 with subsection (b2) on or after July 1, 1967, but prior to July 1,
 12 1969; and provided further that such benefits will be computed
 13 in accordance with subsection (b3) on or after July 1, 1969.

14 b. In lieu of the benefits provided in paragraph a of this
 15 subdivision, any member who separates from service prior to
 16 the attainment of the age of 60 years, for any reason other than
 17 death or retirement for disability as provided in G.S. 128-27(c),
 18 after completing 20 or more years of creditable service, and
 19 who leaves his total accumulated contributions in said System
 20 may elect to retire on an early retirement allowance upon
 21 attaining the age of 50 years or at any time thereafter; provided
 22 that such member may so retire only upon written application to
 23 the Board of Trustees setting forth at what time, not less than
 24 one day nor more than 90 days subsequent to the execution and
 25 filing thereof, he desires to be retired. Such early retirement
 26 allowance so elected shall be equal to the deferred retirement
 27 allowance otherwise payable at the attainment of the age of 60
 28 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

31
 32
 33
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 41 b1. In lieu of the benefits provided in paragraphs a and b of this
 42 subdivision, any member who is a law enforcement officer at
 43 the time of separation from service prior to the attainment of the
 44 age of 50 years, for any reason other than death or disability as

1 provided in this Article, after completing 15 or more years of
2 creditable service in this capacity immediately prior to
3 separation from service, and who leaves his total accumulated
4 contributions in this System, may elect to retire on a deferred
5 early retirement allowance upon attaining the age of 50 years or
6 at any time thereafter; provided, that the member may
7 commence retirement only upon written application to the
8 Board of Trustees setting forth at what time, as of the first day
9 of a calendar month, not less than one day nor more than 90
10 days subsequent to the execution and filing thereof, he desires
11 to commence retirement. The deferred early retirement
12 allowance shall be computed in accordance with the service
13 retirement provisions of this Article pertaining to law
14 enforcement officers.

15 b2. In lieu of the benefits provided in paragraphs a and b of this
16 subdivision, any member who is a law enforcement officer at
17 the time of separation from service prior to the attainment of the
18 age of 55 years, for any reason other than death or disability as
19 provided in this Article, after completing five or more years of
20 creditable service in this capacity immediately prior to
21 separation from service, and who leaves his total accumulated
22 contributions in this System may elect to retire on a deferred
23 service retirement allowance upon attaining the age of 55 years
24 or at any time thereafter; provided, that the member may
25 commence retirement only upon written application to the
26 Board of Trustees setting forth at what time, as of the first day
27 of a calendar month not less than one day nor more than 90
28 days subsequent to the execution and filing thereof, he desires
29 to commence retirement. The deferred service retirement
30 allowance shall be computed in accordance with the service
31 retirement provisions of this Article pertaining to law
32 enforcement officers.

33 c. Should a beneficiary of less than 70 years of age who retired on
34 an early or service retirement allowance be reemployed by an
35 employer participating in the Retirement System on a
36 permanent full-time, part-time, temporary, or on fee-for-service
37 basis, whether contractual or otherwise, the retirement
38 allowance shall be suspended if the beneficiary receives or
39 earns any of the following:

- 40 1. Salary or fees or both in excess of one thousand five
41 hundred dollars (\$1,500) per month;
- 42 2. Salary or fees or both in excess of thirteen thousand five
43 hundred dollars (\$13,500) during any consecutive 12
44 calendar months;

- 1 3. Salary or fees or both during any consecutive 12
2 calendar months, which is greater than fifty percent
3 (50%) of the reported compensation during the 12
4 months of service preceding the effective date of
5 retirement; or
6 4. Salary or fees or both during any month, which when
7 added to the retirement allowance at retirement exceeds
8 the monthly compensation earned immediately prior to
9 retirement, if reemployed by the same employer within
10 90 days of the effective date of retirement.

11 The suspension of the retirement allowance shall be effective as of the
12 first day of the month in which the beneficiary meets the conditions set
13 forth in conditions 1 or 4 of this paragraph and effective as of the first
14 day of the next succeeding month following the month in which the
15 beneficiary meets the conditions set forth in conditions 2 or 3 of this
16 paragraph. The retirement allowance shall be reinstated the month
17 following termination of reemployment or the month following the
18 month in which the conditions set forth in this paragraph are no longer
19 met. The Board of Trustees may adjust the monetary limits in this
20 paragraph by an amount equivalent to any across-the-board salary
21 increase granted to employees of the State by the General Assembly.
22 Each employer shall report information monthly to the Board of
23 Trustees on forms provided by the Board on each reemployed
24 beneficiary sufficient for the effective enforcement of this paragraph.
25 Notwithstanding the foregoing, any beneficiary may irrevocably elect
26 to recommence membership in the Retirement System immediately
27 upon being restored to service, whereupon the retirement allowance
28 shall cease.

29 Any beneficiary who is retired on early or service retirement who is 70
30 years of age or more be reemployed by any employer participating in
31 the Retirement System on a permanent full-time, part-time, temporary,
32 or on a fee-for-service basis, whether contractual or otherwise, without
33 any suspension of his retirement benefits.

34 d. A beneficiary whose retirement allowance is suspended in
35 accordance with the provisions of paragraph c and who is
36 restored to service shall become a member of the Retirement
37 System and shall contribute thereafter as allowed by law at the
38 uniform contribution payable by all members.

39 Upon his subsequent retirement, he shall be paid a retirement
40 allowance determined as follows:

- 41 1. For a member who earns at least three years' membership
42 service after restoration to service, the retirement
43 allowance shall be computed on the basis of his
44 compensation and service before and after the period of

1 prior retirement without restriction; provided, that if the
2 prior allowance was based on a social security leveling
3 payment option, the allowance shall be adjusted
4 actuarially for the difference between the amount
5 received under the optional payment and what would
6 have been paid if the retirement allowance had been paid
7 without optional modification.

- 8 2. For a member who does not earn three years'
9 membership service after restoration to service, the
10 retirement allowance shall be equal to the sum of the
11 retirement allowance to which he would have been
12 entitled had he not been restored to service, without
13 modification of the election of an optional allowance
14 previously made, and the retirement allowance that
15 results from service earned since being restored to
16 service; provided, that if the prior retirement allowance
17 was based on a social security leveling payment option,
18 the prior allowance shall be adjusted actuarially for the
19 difference between the amount that would have been
20 paid for each month had the payment not been suspended
21 and what would have been paid if the retirement
22 allowance had been paid without optional modification."

23 Sec. 2. G.S. 135-3(8) reads as rewritten:

- 24 "(8) The provisions of this subsection (8) shall apply to any member whose
25 membership is terminated on or after July 1, 1963 and who becomes
26 entitled to benefits hereunder in accordance with the provisions hereof.
27 a. Notwithstanding any other provision of this Chapter, any
28 member who separates from service prior to the attainment of
29 the age of 60 years for any reason other than death or retirement
30 for disability as provided in G.S. 135-5(c), after completing 15
31 or more years of creditable service, and who leaves his total
32 accumulated contributions in said System shall have the right to
33 retire on a deferred retirement allowance upon attaining the age
34 of 60 years; provided that such member may retire only upon
35 written application to the Board of Trustees setting forth at what
36 time, not less than one day nor more than 90 days subsequent to
37 the execution and filing thereof, he desires to be retired; and
38 further provided that in the case of a member who so separates
39 from service on or after July 1, 1967 or whose account is active
40 on July 1, 1967, or has not withdrawn his contributions, the
41 aforesated requirement of 15 or more years of creditable
42 service shall be reduced to 12 or more years of creditable
43 service; and further provided that in the case of a member who
44 so separates from service on or after July 1, 1971, or whose

1 account is active on July 1, 1971, the aforesaid requirement of
 2 12 or more years of creditable service shall be reduced to five
 3 or more years of creditable service. Such deferred retirement
 4 allowance shall be computed in accordance with the provisions
 5 of G.S. 135-5(b1); provided that such benefits will be computed
 6 in accordance with (b2) on or after July 1, 1967, but prior to
 7 July 1, 1969; and provided further that such benefits will be
 8 computed in accordance with (b3) on or after July 1, 1969.
 9 Notwithstanding the foregoing, any member whose services as
 10 a teacher or employee are terminated for any reason other than
 11 retirement, who becomes employed by a nonprofit, nonsectarian
 12 private school in North Carolina below the college level within
 13 one year after such teacher or employee has ceased to be a
 14 teacher or employee, may elect to leave his total accumulated
 15 contributions in the Teachers' and State Employees' Retirement
 16 System during the period he is in the employment of such
 17 employer; provided that he files notice thereof in writing with
 18 the Board of Trustees of the Retirement System within five
 19 years after separation from service as a public school teacher or
 20 State employee; such member shall be deemed to have met the
 21 requirements of the above provisions of this subdivision upon
 22 attainment of age 60 while in such employment provided that
 23 he is otherwise vested.

24 b. In lieu of the benefits provided in paragraph a of this
 25 subdivision (8), any member who separates from service prior
 26 to the attainment of the age of 60 years, for any reason other
 27 than death or retirement for disability as provided in G.S. 135-
 28 5(c), after completing 20 or more years of creditable service,
 29 and who leaves his total accumulated contributions in said
 30 System, may elect to retire on an early retirement allowance
 31 upon attaining the age of 50 years or at any time thereafter;
 32 provided that such member may so retire only upon written
 33 application to the Board of Trustees setting forth at what time,
 34 not less than one day nor more than 90 days subsequent to the
 35 execution and filing thereof, he desires to be retired. Such early
 36 retirement allowance so elected shall be equal to the deferred
 37 retirement allowance otherwise payable at the attainment of the
 38 age of 60 years reduced by the percentage thereof indicated
 39 below.

40	Age at	Percentage
41	Retirement	Reduction
42	59	7
43	58	14
44	57	20

1	56	25
2	55	30
3	54	35
4	53	39
5	52	43
6	51	46
7	50	50

b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.

b2. In lieu of the benefits provided in paragraphs a and b of of this subdivision, any member who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred early retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.

- 1 c. Should a beneficiary of less than 70 years of age who retired on
2 an early or service retirement allowance be reemployed by an
3 employer participating in the Retirement System on a
4 permanent full-time, part-time, temporary, or on fee-for-service
5 basis, whether contractual or otherwise, the retirement
6 allowance shall be suspended if the beneficiary receives or
7 earns any of the following:
- 8 1. Salary or fees or both in excess of one thousand five
9 hundred dollars (\$1,500) per month;
 - 10 2. Salary or fees or both in excess of thirteen thousand five
11 hundred (\$13,500) during any consecutive 12 calendar
12 months;
 - 13 3. Salary or fees or both during any consecutive 12
14 calendar months, which is greater than fifty percent
15 (50%) of the reported compensation during the 12
16 months of service preceding the effective date of
17 retirement; or
 - 18 4. Salary or fees or both during any month, which when
19 added to the retirement allowance at retirement exceeds
20 the monthly compensation earned immediately prior to
21 retirement, if reemployed by the same employer within
22 90 days of the effective date of retirement.

23 The suspension of the retirement allowance shall be effective as of
24 the first day of the month in which the beneficiary meets the
25 conditions set forth in conditions 1 or 4 of this paragraph and effective
26 as of the first day of the next succeeding month following the month in
27 which the beneficiary meets the conditions set forth in conditions 2 or
28 3 of this paragraph. The retirement allowance shall be reinstated the
29 month following termination of reemployment or the month following
30 the month in which the conditions set forth in this paragraph are no
31 longer met. The Board of Trustees may adjust the monetary limits in
32 this paragraph by an amount equivalent to any across-the-board salary
33 increase granted to employees of the State by the General Assembly.
34 Each employer shall report information monthly to the Board of
35 Trustees on forms provided by the Board on each reemployed
36 beneficiary sufficient for the effective enforcement of this paragraph.
37 Notwithstanding the foregoing, any beneficiary may irrevocable elect
38 to recommence membership in the Retirement System immediately
39 upon being restored to service, whereupon the retirement allowance
40 shall cease.

41 Any beneficiary who is retired on early or service retirement who
42 is 70 years of age or more be reemployed by any employer
43 participating in the Retirement System on a permanent full-time, part-

1 time, temporary, or on a fee-for-service basis, whether contractual or
2 otherwise, without any suspension of his retirement benefits.

3 d. A beneficiary whose retirement allowance is suspended in
4 accordance with the provisions of paragraph c and who is
5 restored to service shall become a member of the Retirement
6 System and shall contribute thereafter as allowed by law at the
7 uniform contribution payable by all members.

8 Upon his subsequent retirement, he shall be paid a retirement
9 allowance determined as follows:

10 1. For a member who earns at least three years' membership
11 service after restoration to service, the retirement
12 allowance shall be computed on the basis of his
13 compensation and service before and after the period of
14 prior retirement without restrictions; provided, that if the
15 prior allowance was based on a social security leveling
16 payment option, the allowance shall be adjusted
17 actuarially for the difference between the amount
18 received under the optional payment and what would
19 have been paid if the retirement allowance had been paid
20 without optional modification.

21 2. For a member who does not earn three years'
22 membership service after restoration to service, the
23 retirement allowance shall be equal to the sum of the
24 retirement allowance to which he would have been
25 entitled had he not been restored to service, without
26 modification of the election of an optional allowance
27 previously made, and the retirement allowance that
28 results from service earned since being restored to
29 service; provided, that if the prior retirement allowance
30 was based on a social security leveling payment option,
31 the prior allowance shall be adjusted actuarially for the
32 difference between the amount that would have been
33 paid for each month had the payment not been suspended
34 and what would have been paid if the retirement
35 allowance had been paid without optional modification.

36 e. Any beneficiary who retired on an early or service retirement
37 allowance as an employee of any State department, agency or
38 institution under the Law Enforcement Officers' Retirement
39 System and becomes employed as an employee by a State
40 department, agency, or institution as an employer participating
41 in the Retirement System shall become subject to the provisions
42 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
43 1989."

1 Sec. 3. This act shall become effective July 1, 1989, and applies to retirement
2 benefits due on and after that date.