

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1250

Short Title: LEO-Reemployment Earnings.

(Public)

Sponsors: Representative Mills.

Referred to: Pensions and Retirement.

April 12 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE STATE-ADMINISTERED RETIREMENT SYSTEMS' LAW RELATING TO REEMPLOYMENT LIMITATIONS FOR LAW OFFICERS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-3(8) reads as rewritten:

"(8) The provisions of this subsection (8) shall apply to any member whose membership is terminated on or after July 1, 1963 and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

a. Notwithstanding any other provision of this Chapter, any member who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 135-5(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967 or whose account is active on July 1, 1967, or has not withdrawn his contributions, the aforesated requirement of 15 or more years of creditable

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

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

Age at Retirement	Percentage Reduction
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1	59	7
2	58	14
3	57	20
4	56	25
5	55	30
6	54	35
7	53	39
8	52	43
9	51	46
10	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

1 retirement provisions of this Article pertaining to law-  
2 enforcement officers.

3 c. Should a beneficiary who retired on an early or service  
4 retirement allowance be reemployed by an employer  
5 participating in the Retirement System on a permanent full-  
6 time, part-time, temporary, or on fee-for-service basis, whether  
7 contractual or otherwise, the retirement allowance shall be  
8 suspended if the beneficiary receives or earns any of the  
9 following:

- 10 1. Salary or fees or both in excess of one thousand five  
11 hundred dollars (\$1,500) per month;
- 12 2. Salary or fees or both in excess of thirteen thousand five  
13 hundred (\$13,500) during any consecutive 12 calendar  
14 months;
- 15 3. Salary or fees or both during any consecutive 12  
16 calendar months, which is greater than fifty percent  
17 (50%) of the reported compensation during the 12  
18 months of service preceding the effective date of  
19 retirement; or
- 20 4. Salary or fees or both during any month, which when  
21 added to the retirement allowance at retirement exceeds  
22 the monthly compensation earned immediately prior to  
23 retirement, if reemployed by the same employer within  
24 90 days of the effective date of retirement.

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

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

6           Upon his subsequent retirement, he shall be paid a  
7           retirement allowance determined as follows:

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

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

34          e.    Any beneficiary who retired on an early or service retirement  
35          allowance as an employee of any State department, agency or  
36          institution under the Law Enforcement Officers' Retirement  
37          System and becomes employed as an employee by a State  
38          department, agency, or institution as an employer participating  
39          in the Retirement System shall become subject to the provisions  
40          of G.S. 135-3(8)c and G.S. 135-3(8)d on and after ~~January 1,~~  
41          1989 January 1, 1991."

42                Sec. 2. G.S. 128-24(5a) reads as rewritten:

43                "(5a) Notwithstanding the provisions of paragraphs c and d of the subdivision (5) to  
44                the contrary, a beneficiary who was a beneficiary retired on an early or service

1 retirement with the Law Enforcement Officers' Retirement System at the time of the  
2 transfer of law enforcement officers employed by a participating employer and  
3 beneficiaries last employed by a participating employer to this Retirement System on  
4 January 1, 1986, and who also was a contributing member of this Retirement System on  
5 January 1, 1986, shall continue to be paid his retirement allowance without restriction  
6 and may continue as a member of this Retirement System with all the rights and  
7 privileges appendant to membership. Any beneficiary who retired on an early or service  
8 retirement allowance as an employee of any participating employer under the Law  
9 Enforcement Officers' Retirement System and becomes employed as an employee by an  
10 employer participating in the Retirement System after January 1, 1986, becomes subject  
11 to the provisions of G.S. 128-24(5)c. and G.S. 128-24(5)d. on and after ~~January 1, 1989~~  
12 January 1, 1991."

13           Sec. 3. This act is effective upon ratification.