

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1318

Short Title: Early/Service/Disability Ret.

(Public)

Sponsors: Representatives Blue; H. Hunter and Hardaway.

Referred to: Pensions and Retirement.

April 12, 1989

A BILL TO BE ENTITLED

1 AN ACT TO DEFINE THE NOTICE REQUIRED TO CONVERT AN EARLY OR
2 SERVICE RETIREMENT BENEFIT TO A DISABILITY RETIREMENT
3 BENEFIT IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM.
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6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 135-5(c) reads as rewritten:

8 “(c) Disability Retirement Benefits of Members Retiring Prior to January 1, 1988.

9 – The provisions of this subsection shall not be applicable to members on or after
10 January 1, 1988. Upon the application of a member or of his employer, any member
11 who has had five or more years of creditable service may be retired by the Board of
12 Trustees, on the first day of any calendar month, not less than one day nor more than 90
13 days next following the date of filing such application, on a disability retirement
14 allowance: Provided, that the medical board, after a medical examination of such
15 member, shall certify that such member is mentally or physically incapacitated for the
16 further performance of duty, that such incapacity was incurred at the time of active
17 employment and has been continuous thereafter, that such incapacity is likely to be
18 permanent, and that such member should be retired; Provided further the medical board
19 shall determine if the member is able to engage in gainful employment and, if so, the
20 member may still be retired and the disability retirement allowance as a result thereof
21 shall be reduced as in subsection (e) below. Provided further, that the medical board
22 shall not certify any member as disabled who:

- 1 (1) Applies for disability retirement based upon a mental or physical
2 incapacity which existed when the member first established
3 membership in the system; or
4 (2) Is in receipt of any payments on account of the same disability which
5 existed when the member first established membership in the system.

6 The Board of Trustees shall require each employee upon enrolling in the retirement
7 system to provide information on the membership application concerning any mental or
8 physical incapacities existing at the time the member enrolls.

9 Supplemental disability benefits heretofore provided are hereby made a permanent
10 part of disability benefits after age 65, and shall not be discontinued at age 65.

11 Notwithstanding the requirement of five or more years of creditable service to the
12 contrary, a member who is a law-enforcement officer and who has had one year or more
13 of creditable service and becomes incapacitated for duty as the natural and proximate
14 result of an accident occurring while in the actual performance of duty, and meets all
15 other requirements for disability retirement benefits, may be retired by the Board of
16 Trustees on a disability retirement allowance.

17 Notwithstanding the foregoing to the contrary, any beneficiary who commenced
18 retirement with an early or service retirement benefit has the right, within three years of
19 his retirement, to convert to an allowance with disability retirement benefits without
20 modification of any election of optional allowance previously made; provided, the
21 beneficiary presents clear and convincing evidence that the beneficiary would have met
22 all applicable requirements for disability retirement benefits while still in service as a
23 member. The allowance on account of disability retirement benefits to the beneficiary
24 shall be retroactive to the effective date of early or service retirement. For purposes of
25 this paragraph, notice by the beneficiary to his or her former employer within the three
26 year time period of the beneficiary's election to convert to a disability retirement
27 allowance shall be sufficient to allow the Board of Trustees to approve this conversion,
28 if the beneficiary otherwise meets all applicable requirements for disability retirement
29 benefits.

30 Notwithstanding the foregoing, the surviving designated beneficiary of a deceased
31 member who met all other requirements for disability retirement benefits, except whose
32 death occurred before the first day of the calendar month in which the member's
33 disability retirement allowance was to be due and payable, may elect to receive the
34 reduced retirement allowance provided by a fifty percent (50%) joint and survivor
35 payment option in lieu of a return of accumulated contributions, provided the following
36 conditions apply:

- 37 (1) The member had designated as the principal beneficiary, to receive a
38 return of accumulated contributions at the time of his death, one and
39 only one person, and
40 (2) The member had not instructed the Board of Trustees in writing that he
41 did not wish the provision of this subsection to apply."

42 Sec. 2. This act shall become effective July 1, 1989, and applies to
43 conversions made on and after that date.