

GENERAL ASSEMBLY OF NORTH CAROLINA  
1989 SESSION

CHAPTER 1077  
SENATE BILL 1598

AN ACT TO INCREASE THE RETIREMENT FORMULA FOR MEMBERS AND BENEFICIARIES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, AND TO PROVIDE AN INCREASE TO RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly of North Carolina finds that (1) retirees and beneficiaries of the Teachers' and State Employees' Retirement System, the Local Governmental Employees' Retirement System, the Consolidated Judicial Retirement System, and the Legislative Retirement System paid no State income tax on their benefits prior to 1989; (2) the tax policy of North Carolina provided for a tax exemption on all money in, or paid by, these systems prior to 1989; and (3) compensation is due the retirees and beneficiaries for the loss of the tax exemption, except for a \$4,000 exclusion, as much as possible within the limits of available resources.

Sec. 2. G.S. 135-5(b11) reads as rewritten:

"(b11) Service Retirement Allowance of Members Retiring on or after July 1, ~~1989~~, 1989, but before July 1, 1990. – Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1989, but before July 1, 1990, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty-three hundredths percent (1.63%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 135-5(b9)(1)b.

- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-three hundredths percent (1.63%) of his average final compensation, multiplied by the number of years of creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 135-5(b9)(2)b. c. and d."

Sec. 3. G.S. 135-5 is amended by adding a new subsection to read:

"(b12) Service Retirement Allowance of Members Retiring on or after July 1, 1990. – Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1990, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 135-5(b9)(1)b.
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 135-5(b9)(2)b. c. and d."

Sec. 4. G.S. 135-5 is amended by adding a new subsection to read:

"(rr) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990. From and after July 1, 1990, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1990, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1990, so as not to be compounded on any other increase granted by act of the 1989 Session of the General Assembly (1990 Regular Session)."

Sec. 5. G.S. 135-5 is amended by adding a new subsection to read:

"(ss) From and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1989, and June 30, 1990."

Sec. 6. G.S. 135-58(a) reads as rewritten:

"(a) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 before July 1, 1990, after he either has attained his sixty-fifth birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2) and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three fourths of his final compensation:

- (1) Four percent (4%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and one-half percent (3 1/2%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;
- (3) Three percent (3%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court."

Sec. 7. G.S. 135-58 is amended by adding a new subsection to read:

"(a1) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 on or after July 1, 1990, after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of

his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

- (1) Four and two-hundredths percent (4.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- (2) Three and fifty-two hundredths percent (3.52%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;
- (3) Three and two-hundredths percent (3.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court."

Sec. 8. G.S. 135-65 is amended by adding a new subsection to read:

"(k) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990. From and after July 1, 1990, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1990, shall be increased by six-tenths percent (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1990, so as not to be compounded on any other increase granted by act of the 1989 Session of the General Assembly (1990 Regular Session)."

Sec. 9. G.S. 135-65 is amended by adding a new subsection to read:

"(l) From and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989. Furthermore, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1989, and June 30, 1990."

Sec. 10. G.S. 120-4.21 reads as rewritten:

**"§ 120-4.21. Service retirement benefits.**

(a) Eligibility; Application. – Any member in service may retire with full benefits who has reached 65 years of age with five years of creditable service. Any member in service may retire with reduced benefits who has reached the age of 60 years with five years of creditable service. The member shall make written application to the Board of Trustees to retire on a service retirement allowance on the first day of the particular calendar month he designates. The designated date shall be no less than one

day nor more than 90 days from the filing of the application. During this period of notification, a member may separate from service without forfeiting his retirement benefits.

(b) Computation. – Upon retirement from service in accordance with subsection (a) of this ~~section~~, section before July 1, 1990, a member shall receive a service retirement allowance computed as follows:

- (1) For a member whose retirement date occurs on or after his 65th birthday and upon completion of five years of creditable service, four percent (4%) of his 'highest annual salary,' multiplied by the number of years of creditable service.
- (2) For a member whose retirement date occurs on or after his 60th and before his 65th birthday and upon completion of five years of creditable service, computation as in subdivision (1) of this subsection, reduced by one-fourth of one percent (1/4 of 1%) for each month his retirement date precedes his 65th birthday.

(b1) Computation. – Upon retirement from service in accordance with subsection (a) of this section on or after July 1, 1990, a member shall receive a service retirement allowance computed as follows:

- (1) For a member whose retirement date occurs on or after his 65th birthday and upon completion of five years of creditable service, four and two-hundredths percent (4.02%) of his 'highest annual salary,' multiplied by the number of years of creditable service.
- (2) For a member whose retirement date occurs on or after his 60th and before his 65th birthday and upon completion of five years of creditable service, computation as in subdivision (1) of this subsection, reduced by one-fourth of one percent (1/4 of 1%) for each month his retirement date precedes his 65th birthday.

(c) Limitations. – In no event shall any member receive a service retirement allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor shall he receive any service retirement allowance whatever while employed in a position that makes him a contributing member of any of the following retirement systems: The Teachers' and State Employees' Retirement System, the North Carolina Local Governmental Employees' Retirement System, the Law-Enforcement Officers' Retirement System, the Uniform Judicial Retirement System of North Carolina, the Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of Court Retirement System of North Carolina. If he should become a member of any of these systems, payment of his service retirement allowance shall be suspended until he withdraws from membership in that system."

Sec. 11. G.S. 120-4.22A is amended by adding a new subsection to read:

"(f) In accordance with subsection (a) of this section, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before January 1, 1990, shall be increased by the same amount as provided to retired members and beneficiaries of the Teachers' and State Employees' Retirement System pursuant to the provisions of G.S. 135-5(rr) and (ss)."

Sec. 12. Of funds appropriated to the General Assembly, the sum of \$172,000 shall be transferred to the Legislative Retirement System to fund the provisions of subsections 10 and 11.

Sec. 13. G.S. 128-27(b11) reads as rewritten:

"(b11) Service Retirement Allowance of Members Retiring on or after July 1, 1989, 1989, but before July 1, 1990. – Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1989, but before July 1, 1990, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and sixty-three hundredths percent (1.63%) of his average final compensation, multiplied by the number of years of his creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).
- (2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-three hundredths percent (1.63%) of his average final compensation, multiplied by the number of years of creditable service.
  - b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a) and (3)."

Sec. 14. G.S. 128-27 is amended by adding a new subsection to read:

"(b12) Service Retirement Allowance of Members Retiring on or after July 1, 1990. – Upon retirement from service in accordance with subsection (a) above, on or after July 1, 1990, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
  - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and

sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of his creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b8)(2).

(2) A member who is not a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and sixty-four hundredths percent (1.64%) of his average final compensation, multiplied by the number of years of creditable service.

b. This allowance shall also be governed by the provisions of G.S. 128-27(b7)(2a) and (3)."

Sec. 15. G.S. 128-27 is amended by adding a new subsection to read:

"(hh) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990. From and after July 1, 1990, the retirement allowance to or on account of beneficiaries on the retirement rolls as of June 1, 1990, shall be increased by six-tenths of one percent (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on the basis of the allowance payable and in effect on June 30, 1990, so as not to be compounded on any other increase granted by act of the 1989 Session of the General Assembly (1990 Regular Session)."

Sec. 16. G.S. 128-27 is amended by adding a new subsection to read:

"(ii) From and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989, in accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1990, the retirement allowance to or on account of beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the allowance payable as determined by the Board of Trustees based upon the number of months that a retirement allowance was paid between July 1, 1989, and June 30, 1990."

Sec. 17. The State's contribution rate budgeted for the University Employees' Optional Retirement Program is increased from eight and thirty-seven hundredths percent (8.37%), as contained in the Current Operations Appropriations Act of 1990, to eight and forty-one hundredths percent (8.41%). The foregoing contribution rate includes one and sixty-five hundredths percent (1.65%) for hospital and medical benefits and fifty-two hundredths percent (0.52%) for the Disability Income Plan.

Sec. 18. Section 17 of this act is effective August 1, 1990. The remainder of the act is effective July 1, 1990.

In the General Assembly read three times and ratified this the 28th day of July, 1990.