

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 288

Short Title: Modify Retire. Benefit Restrict.

(Public)

Sponsors: Senator Block.

Referred to: Pensions and Retirement.

March 27, 1991

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE BENEFIT RESTRICTIONS FOR REEMPLOYED
2 RETIREES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
3 SYSTEM AND IN THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM AND IN THE CONSOLIDATED JUDICIAL
5 RETIREMENT SYSTEM.
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 member
10 whose membership is terminated on or after July 1, 1965, and who
11 becomes entitled to benefits hereunder in accordance with the
12 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	Percentage
Retirement	Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

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 who retired on an early or service
34 retirement allowance be ~~reemployed-reemployed, or otherwise~~
35 engaged to perform services, by an employer participating in
36 the Retirement System on a ~~permanent full-time,~~ part-time,
37 temporary, interim, or on a fee-for-service basis, whether
38 contractual or otherwise, ~~the retirement allowance shall be~~
39 ~~suspended if the beneficiary receives or 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 ealendar 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
12 of the first day of the month in which the beneficiary meets the
13 conditions set forth in conditions 1 or 4 of this paragraph and
14 effective as of the first day of the next succeeding month
15 following the month in which the beneficiary meets the
16 conditions set forth in conditions 2 or 3 of this paragraph. The
17 retirement allowance shall be reinstated the month following
18 termination of reemployment or the month following the month
19 in which the conditions set forth in this paragraph are no longer
20 met. The Board of Trustees may adjust the monetary limits in
21 this paragraph by an amount equivalent to any across the board
22 salary increase granted to employees of the State by the General
23 Assembly. Each employer shall report information monthly to
24 the Board of Trustees on forms provided by the Board on each
25 reemployed beneficiary sufficient for the effective enforcement
26 of this paragraph. Notwithstanding the foregoing, any
27 beneficiary may irrevocably elect to recommence membership
28 in the Retirement System immediately upon being restored to
29 service, whereupon the retirement allowance shall cease, and if
30 such beneficiary earns an amount in any calendar year which
31 exceeds seventy-five percent (75%) of average final
32 compensation, as hereinafter indexed, then the retirement
33 allowance shall be suspended as of the first day of the month
34 following the month in which the reemployment earnings
35 exceed the amount above, for the balance of the calendar year.
36 The retirement allowance of the beneficiary shall be reinstated
37 as of January 1 of each year following suspension. The amount
38 that may be earned before suspension shall be increased on
39 January 1 of each year by the ratio of the Consumer Price Index
40 to the Index one year earlier, calculated to the nearest tenth of a
41 percent (1/10 of 1%).

- 42 d. Should a A-beneficiary who retired on an early or service
43 retirement allowance whose retirement allowance is suspended in
44 accordance with the provisions of paragraph c and who is be

1 restored to service as an employee, then the retirement
2 allowance shall cease as of the first day of the month following
3 the month in which the beneficiary is restored to service and the
4 beneficiary shall become a member of the Retirement System
5 and shall contribute thereafter as allowed by law at the uniform
6 contribution payable by all members.

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

- 9 1. For a member who earns at least three years' membership
10 service after restoration to service, the retirement
11 allowance shall be computed on the basis of his
12 compensation and service before and after the period of
13 prior retirement without restriction; provided, that if the
14 prior allowance was based on a social security leveling
15 payment option, the allowance shall be adjusted
16 actuarially for the difference between the amount
17 received under the optional payment and what would
18 have been paid if the retirement allowance had been paid
19 without optional modification.
- 20 2. For a member who does not earn three years'
21 membership service after restoration to service, the
22 retirement allowance shall be equal to the sum of the
23 retirement allowance to which he would have been
24 entitled had he not been restored to service, without
25 modification of the election of an optional allowance
26 previously made, and the retirement allowance that
27 results from service earned since being restored to
28 service; provided, that if the prior retirement allowance
29 was based on a social security leveling payment option,
30 the prior allowance shall be adjusted actuarially for the
31 difference between the amount that would have been
32 paid for each month had the payment not been suspended
33 and what would have been paid if the retirement
34 allowance had been paid without optional modification."

35 Sec. 2. G.S. 135-1(10) reads as rewritten:

36 "(10) 'Employee' shall mean all full-time employees, agents or officers of
37 the State of North Carolina or any of its departments, bureaus and
38 institutions other than educational, whether such employees are
39 elected, appointed or employed: Provided that the term 'employee'
40 shall not include any person who is a member of the ~~Uniform~~
41 Consolidated Judicial Retirement System, any member of the General
42 Assembly or any part-time or temporary employee. Notwithstanding
43 any other provision of law, 'employee' shall include all employees of
44 the General Assembly except participants in the Legislative Intern

~~Program~~ Program, and pages. pages, and reemployed beneficiaries in receipt of a monthly retirement allowance under this Chapter. In all cases of doubt, the Board of Trustees shall determine whether any person is an employee as defined in this Chapter. 'Employee' shall also mean every full-time civilian employee of the army national guard and air national guard of this State who is employed pursuant to section 709 of Title 32 of the United States Code and paid from federal appropriated funds, but held by the federal authorities not to be a federal employee: Provided, however, that the authority or agency paying the salaries of such employees shall deduct or cause to be deducted from each employee's salary the employee's contribution in accordance with applicable provisions of G.S. 135-8 and remit the same, either directly or indirectly, to the Retirement System; coverage of employees described in this sentence shall commence upon the first day of the calendar year or fiscal year, whichever is earlier, next following the date of execution of an agreement between the Secretary of Defense of the United States and the Adjutant General of the State acting for the Governor in behalf of the State, but no credit shall be allowed pursuant to this sentence for any service previously rendered in the above-described capacity as a civilian employee of the national guard: Provided, further, that the Adjutant General, in his discretion, may terminate the Retirement System coverage of the above-described national guard employees if a federal retirement system is established for such employees and the Adjutant General elects to secure coverage of such employees under such federal retirement system. Any full-time civilian employee of the national guard described above who is now or hereafter may become a member of the Retirement System may secure Retirement System credit for such service as a national guard civilian employee for the period preceding the time when such employees became eligible for Retirement System coverage by paying to the Retirement System an amount equal to that which would have constituted employee contributions if he had been a member during the years of ineligibility, plus interest. Employees of State agencies, departments, institutions, boards, and commissions who are employed in permanent job positions on a recurring basis and who work 30 or more hours per week for nine or more months per calendar year are covered by the provisions of this subdivision."

Sec. 3. 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

1 for disability as provided in G.S. 135-5(c), after completing 15
2 or more years of creditable service, and who leaves his total
3 accumulated contributions in said System shall have the right to
4 retire on a deferred retirement allowance upon attaining the age
5 of 60 years; provided that such member may retire only upon
6 written application to the Board of Trustees setting forth at what
7 time, not less than one day nor more than 90 days subsequent to
8 the execution and filing thereof, he desires to be retired; and
9 further provided that in the case of a member who so separates
10 from service on or after July 1, 1967 or whose account is active
11 on July 1, 1967, or has not withdrawn his contributions, the
12 aforestated requirement of 15 or more years of creditable
13 service shall be reduced to 12 or more years of creditable
14 service; and further provided that in the case of a member who
15 so separates from service on or after July 1, 1971, or whose
16 account is active on July 1, 1971, the aforestated requirement of
17 12 or more years of creditable service shall be reduced to five
18 or more years of creditable service. Such deferred retirement
19 allowance shall be computed in accordance with the provisions
20 of G.S. 135-5(b1); provided that such benefits will be computed
21 in accordance with (b2) on or after July 1, 1967, but prior to
22 July 1, 1969; and provided further that such benefits will be
23 computed in accordance with (b3) on or after July 1, 1969.
24 Notwithstanding the foregoing, any member whose services as
25 a teacher or employee are terminated for any reason other than
26 retirement, who becomes employed by a nonprofit, nonsectarian
27 private school in North Carolina below the college level within
28 one year after such teacher or employee has ceased to be a
29 teacher or employee, may elect to leave his total accumulated
30 contributions in the Teachers' and State Employees' Retirement
31 System during the period he is in the employment of such
32 employer; provided that he files notice thereof in writing with
33 the Board of Trustees of the Retirement System within five
34 years after separation from service as a public school teacher or
35 State employee; such member shall be deemed to have met the
36 requirements of the above provisions of this subdivision upon
37 attainment of age 60 while in such employment provided that
38 he is otherwise vested.

- 39 b. In lieu of the benefits provided in paragraph a of this
40 subdivision (8), any member who separates from service prior
41 to the attainment of the age of 60 years, for any reason other
42 than death or retirement for disability as provided in G.S. 135-
43 5(c), after completing 20 or more years of creditable service,
44 and who leaves his total accumulated contributions in said

System, may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so 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. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 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

- 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 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

1 provided in this Article, after completing five 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 55 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 c. Should a beneficiary who retired on an early or service
16 retirement allowance under this Chapter be ~~reemployed~~
17 reemployed, or otherwise engaged to perform services, by an
18 employer participating in the Retirement System on a ~~permanent~~
19 ~~full-time, part-time,~~ temporary, interim or on a fee-for-service
20 basis, whether contractual or otherwise, ~~the retirement allowance~~
21 ~~shall be suspended if the beneficiary receives or earns any of the~~
22 ~~following:~~

- 23 1. ~~Salary or fees or both in excess of one thousand five~~
24 ~~hundred dollars (\$1,500) per month;~~
- 25 2. ~~Salary or fees or both in excess of thirteen thousand five~~
26 ~~hundred (\$13,500) during any consecutive 12 calendar~~
27 ~~months;~~
- 28 3. ~~Salary or fees or both during any consecutive 12~~
29 ~~calendar months, which is greater than fifty percent~~
30 ~~(50%) of the reported compensation during the 12~~
31 ~~months of service preceding the effective date of~~
32 ~~retirement; or~~
- 33 4. ~~Salary or fees or both during any month, which when~~
34 ~~added to the retirement allowance at retirement exceeds~~
35 ~~the monthly compensation earned immediately prior to~~
36 ~~retirement, if reemployed by the same employer within~~
37 ~~90 days of the effective date of retirement.~~

38 ~~The suspension of the retirement allowance shall be effective~~
39 ~~as of the first day of the month in which the beneficiary meets~~
40 ~~the conditions set forth in conditions 1 or 4 of this paragraph~~
41 ~~and effective as of the first day of the next succeeding month~~
42 ~~following the month in which the beneficiary meets the~~
43 ~~conditions set forth in conditions 2 or 3 of this paragraph. The~~
44 ~~retirement allowance shall be reinstated the month following~~

1 ~~termination of reemployment or the month following the month~~
2 ~~in which the conditions set forth in this paragraph are no longer~~
3 ~~met. The Board of Trustees may adjust the monetary limits in~~
4 ~~this paragraph by an amount equivalent to any across-the-board~~
5 ~~salary increase granted to employees of the State by the General~~
6 ~~Assembly. Each employer shall report information monthly to~~
7 ~~the Board of Trustees on forms provided by the Board on each~~
8 ~~reemployed beneficiary sufficient for the effective enforcement~~
9 ~~of this paragraph. Notwithstanding the foregoing, any~~
10 ~~beneficiary may irrevocable elect to recommence membership~~
11 ~~in the Retirement System immediately upon being restored to~~
12 ~~service, whereupon the retirement allowance shall cease, and if~~
13 ~~such beneficiary earns an amount in any calendar year which~~
14 ~~exceeds seventy-five percent (75%) of average final~~
15 ~~compensation, as hereinafter indexed, then the retirement~~
16 ~~allowance shall be suspended as of the first day of the month~~
17 ~~following the month in which the reemployment earnings~~
18 ~~exceed the amount above, for the balance of the calendar year.~~
19 ~~The retirement allowance of the beneficiary shall be reinstated~~
20 ~~as of January 1 of the year following suspension. The amount~~
21 ~~that may be earned before suspension shall be increased on~~
22 ~~January 1 of each year by the ratio of the Consumer Price Index~~
23 ~~to the Index one year earlier, calculated to the nearest tenth of a~~
24 ~~percent (1/10 of 1%).~~

- 25 d. ~~Should a A-beneficiary who retired on an early or service~~
26 ~~retirement allowance under this Chapter whose retirement~~
27 ~~allowance is suspended in accordance with the provisions of~~
28 ~~paragraph c and who is be restored to service as an employee or~~
29 ~~teacher, then the retirement allowance shall cease as of the first~~
30 ~~day of the month following the month in which the beneficiary~~
31 ~~is restored to service and the beneficiary shall become a~~
32 ~~member of the Retirement System and shall contribute~~
33 ~~thereafter as allowed by law at the uniform contribution payable~~
34 ~~by all members.~~

35 Upon his subsequent retirement, he shall be paid a
36 retirement allowance determined as follows:

- 37 1. For a member who earns at least three years' membership
38 service after restoration to service, the retirement
39 allowance shall be computed on the basis of his
40 compensation and service before and after the period of
41 prior retirement without restrictions; provided, that if the
42 prior allowance was based on a social security leveling
43 payment option, the allowance shall be adjusted
44 actuarially for the difference between the amount

1 received under the optional payment and what would
2 have been paid if the retirement allowance had been paid
3 without optional modification.

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

- 19 e. Any beneficiary who retired on an early or service retirement
20 allowance as an employee of any State department, agency or
21 institution under the Law Enforcement Officers' Retirement
22 System and becomes employed as an employee by a State
23 department, agency, or institution as an employer participating
24 in the Retirement System shall become subject to the provisions
25 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
26 1989."

27 Sec. 4. This act becomes effective January 1, 1991.