

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1162*

Short Title: Reduce Early Retire. Penalty.

(Public)

Sponsors: Representative Holt.

Referred to: Pensions and Retirement.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO CHANGE THE METHOD FOR CALCULATING THE PENALTY FOR EARLY RETIREMENT.

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a member who so separates from service on or after July 1, 1967, or whose account is active on July 1, 1967, or has not withdrawn his contributions, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable

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1 service; and further provided that in the case of a member who
2 so separates from service on or after July 1, 1971, or whose
3 account is active on July 1, 1971, the aforesaid requirement of
4 12 or more years of creditable service shall be reduced to five
5 or more years of creditable service. ~~Such deferred retirement~~
6 ~~allowance shall be computed in accordance with the provisions of~~
7 ~~G.S. 135-5(b1); provided that such benefits will be computed in~~
8 ~~accordance with (b2) on or after July 1, 1967, but prior to July 1,~~
9 ~~1969; and provided further that such benefits will be computed in~~
10 ~~accordance with (b3) on or after July 1, 1969.~~ Such deferred
11 retirement allowance shall be computed in accordance with the
12 service retirement provisions of this Article pertaining to a
13 member who is not a law enforcement officer or an eligible
14 former law enforcement officer. Notwithstanding the
15 foregoing, any member whose services as a teacher or
16 employee are terminated for any reason other than retirement,
17 who becomes employed by a nonprofit, nonsectarian private
18 school in North Carolina below the college level within one
19 year after such teacher or employee has ceased to be a teacher
20 or employee, may elect to leave his total accumulated
21 contributions in the Teachers' and State Employees' Retirement
22 System during the period he is in the employment of such
23 employer; provided that he files notice thereof in writing with
24 the Board of Trustees of the Retirement System within five
25 years after separation from service as a public school teacher or
26 State employee; such member shall be deemed to have met the
27 requirements of the above provisions of this subdivision upon
28 attainment of age 60 while in such employment provided that
29 he is otherwise vested.

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

1 age of 60 years reduced by the percentage thereof indicated
2 below.

3	Age at	Percentage
4		Retirement
5		Reduction
6	59	7
7	58	14
8	57	20
9	56	25
10	55	30
11	54	35
12	53	39
13	52	43
14	51	46
15	50	50

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

34 b2. In lieu of the benefits provided in paragraphs a and b of this
35 subdivision, any member who is a law-enforcement officer at
36 the time of separation from service prior to the attainment of the
37 age of 55 years, for any reason other than death or disability as
38 provided in this Article, after completing five or more years of
39 creditable service in this capacity immediately prior to
40 separation from service, and who leaves his total accumulated
41 contributions in this System may elect to retire on a deferred
42 early retirement allowance upon attaining the age of 55 years or
43 at any time thereafter; provided, that the member may
44 commence retirement only upon written application to the

1 Board of Trustees setting forth at what time, as of the first day
2 of a calendar month not less than one day nor more than 90
3 days subsequent to the execution and filing thereof, he desires
4 to commence retirement. The deferred early retirement
5 allowance shall be computed in accordance with the service
6 retirement provisions of this Article pertaining to law-
7 enforcement officers.

8 b3. Vested deferred retirement allowance of members retiring on or
9 after July 1, 1993. – In lieu of the benefits provided in
10 paragraphs a. and b. of this subdivision, any member who
11 separates from service after completing 20 or more years of
12 creditable service, and who leaves his total accumulated
13 contributions in said System, may elect to retire on a deferred
14 retirement allowance upon attaining the age of 50 years or any
15 time thereafter; provided that such member may so retire only
16 upon written application to the Board of Trustees setting forth
17 at what time, not less than one day nor more than 90 days
18 subsequent to the execution and filing thereof, he desires to be
19 retired. Such deferred retirement allowance shall be computed
20 in accordance with the service retirement provisions of this
21 Article pertaining to a member who is not a law enforcement
22 officer or an eligible former law enforcement officer.

23 c. Should a beneficiary who retired on an early or service
24 retirement allowance be reemployed by an employer
25 participating in the Retirement System on a permanent full-
26 time, part-time, temporary, or on fee-for-service basis, whether
27 contractual or otherwise, the retirement allowance shall be
28 suspended if the beneficiary receives or earns any of the
29 following:

- 30 1. Salary or fees or both in excess of one thousand five
31 hundred dollars (\$1,500) per month;
- 32 2. Salary or fees or both in excess of thirteen thousand five
33 hundred (\$13,500) during any consecutive 12 calendar
34 months;
- 35 3. Salary or fees or both during any consecutive 12
36 calendar months, which is greater than fifty percent
37 (50%) of the reported compensation during the 12
38 months of service preceding the effective date of
39 retirement; or
- 40 4. Salary or fees or both during any month, which when
41 added to the retirement allowance at retirement exceeds
42 the monthly compensation earned immediately prior to
43 retirement, if reemployed by the same employer within
44 90 days of the effective date of retirement.

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

- 23 d. A beneficiary whose retirement allowance is suspended in
24 accordance with the provisions of paragraph c and who is
25 restored to service shall become a member of the Retirement
26 System and shall contribute thereafter as allowed by law at the
27 uniform contribution payable by all members.

28 Upon his subsequent retirement, he shall be paid a
29 retirement allowance determined as follows:

- 30 1. For a member who earns at least three years' membership
31 service after restoration to service, the retirement
32 allowance shall be computed on the basis of his
33 compensation and service before and after the period of
34 prior retirement without restrictions; provided, that if the
35 prior allowance was based on a social security leveling
36 payment option, the allowance shall be adjusted
37 actuarially for the difference between the amount
38 received under the optional payment and what would
39 have been paid if the retirement allowance had been paid
40 without optional modification.
- 41 2. For a member who does not earn three years'
42 membership service after restoration to service, the
43 retirement allowance shall be equal to the sum of the
44 retirement allowance to which he would have been

1 entitled had he not been restored to service, without
2 modification of the election of an optional allowance
3 previously made, and the retirement allowance that
4 results from service earned since being restored to
5 service; provided, that if the prior retirement allowance
6 was based on a social security leveling payment option,
7 the prior allowance shall be adjusted actuarially for the
8 difference between the amount that would have been
9 paid for each month had the payment not been suspended
10 and what would have been paid if the retirement
11 allowance had been paid without optional modification.

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

20 Sec. 2. G.S. 135-5(b13) reads as rewritten:

21 "(b13) Service Retirement Allowance of Members Retiring on or after July 1,
22 ~~1992-1992, but before July 1, 1993.~~ – Upon retirement from service in accordance with
23 subsection (a) above, on or after July 1, 1992, but before July 1, 1993, a member shall
24 receive the following service retirement allowance:

- 25 (1) A member who is a law enforcement officer or an eligible former law
26 enforcement officer shall receive a service retirement allowance
27 computed as follows:
28 a. If the member's service retirement date occurs on or after his
29 55th birthday, and completion of five years of creditable service
30 as a law enforcement officer, or after the completion of 30 years
31 of creditable service, the allowance shall be equal to one and
32 seventy hundredths percent (1.70%) of his average final
33 compensation, multiplied by the number of years of his
34 creditable service.
35 b. This allowance shall also be governed by the provisions of G.S.
36 135-5(b9)(1)b.
- 37 (2) A member who is not a law enforcement officer or an eligible former
38 law enforcement officer shall receive a service retirement allowance
39 computed as follows:
40 a. If the member's service retirement date occurs on or after his
41 65th birthday upon the completion of five years of creditable
42 service or after the completion of 30 years of creditable service
43 or on or after his 60th birthday upon the completion of 25 years
44 of creditable service, the allowance shall be equal to one and

1 seventy hundredths percent (1.70%) of his average final
2 compensation, multiplied by the number of years of creditable
3 service.

4 b. This allowance shall also be governed by the provisions of G.S.
5 135-5(b9)(2)b. c. and d."

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

7 "(b14) Service Retirement Allowance of Members Retiring on or after July 1,
8 1993. – Upon retirement from service in accordance with subsection (a) above, on or
9 after July 1, 1993, a member shall receive the following service retirement allowance:

10 (1) A member who is a law enforcement officer or an eligible former law
11 enforcement officer shall receive a service retirement allowance
12 computed as follows:

13 a. If the member's service retirement date occurs on or after his
14 55th birthday, and completion of five years of creditable service
15 as a law enforcement officer, or after the completion of 30 years
16 of creditable service, the allowance shall be equal to one and
17 seventy hundredths percent (1.70%) of his average final
18 compensation, multiplied by the number of years of his
19 creditable service.

20 b. If the member's service retirement date occurs after his 50th
21 birthday and before his 55th birthday with 15 or more years of
22 creditable service as a law enforcement officer and prior to the
23 completion of 30 years of creditable service, his retirement
24 allowance shall be equal to the greater of:

25 1. The service retirement allowance payable under G.S.
26 135-5(b14)(1)a. reduced by one-third of one percent (1/3
27 of 1%) thereof for each month his retirement date
28 precedes the first day of the month next following the
29 month the member would have completed 30 years of
30 creditable service if he had continued in membership
31 service; or

32 2. The service retirement allowance payable under G.S.
33 135-5(b14)(1)a. reduced by one-third of one percent (1/3
34 of 1%) thereof for each month by which his retirement
35 date precedes the first day of the month coincident with
36 or next following the month the member would have
37 attained his 55th birthday.

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

41 a. If the member's service retirement date occurs on or after his
42 65th birthday upon the completion of five years of creditable
43 service or after the completion of 30 years of creditable service
44 or on or after his 60th birthday upon the completion of 25 years

1 of creditable service, the allowance shall be equal to one and
2 seventy hundredths percent (1.70%) of his average final
3 compensation, multiplied by the number of years of creditable
4 service.

5 b. If the member's service retirement date occurs after his 60th and
6 before his 65th birthday and prior to his completion of 25 years
7 or more of creditable service, his retirement allowance shall be
8 computed as in G.S. 135-5(b14)(2)a. but shall be reduced by
9 one-quarter of one percent (1/4 of 1%) thereof for each month
10 by which his retirement date precedes the first day of the month
11 coincident with or next following his 65th birthday.

12 c. If the member's service retirement date occurs before his 60th
13 birthday and prior to his completion of 30 years of creditable
14 service, his service retirement allowance shall be equal to the
15 greater of:

16 1. The retirement allowance payable under G.S. 135-
17 5(b14)(2)a. reduced by one-third of one percent (1/3 of
18 1%) thereof for each month his retirement date precedes
19 the first day of the month next following the month the
20 member would have completed 30 years of creditable
21 service if he had continued in membership service; or

22 2. The retirement allowance payable under G.S. 135-
23 5(b14)(2)b., reduced by one-third of one percent (1/3 of
24 1%) thereof for each month his retirement date precedes
25 the first day of the month coincident with or next
26 following the month the member would have attained his
27 60th birthday.

28 d. This allowance shall also be governed by the provisions of G.S.
29 135-5(b9)(2)d."

30 Sec. 4. This act becomes effective July 1, 1993.