

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1235

Short Title: Career Fire Fighter Retirement.

(Public)

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Sponsors: Senators Sherron and Smith.

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Referred to: Pensions and Retirement.

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June 15, 1993

A BILL TO BE ENTITLED

AN ACT TO PROVIDE CAREER FIRE FIGHTERS WITH THE SAME BENEFITS RECEIVED BY LAW ENFORCEMENT OFFICERS UNDER THE LOCAL GOVERNMENTAL RETIREMENT SYSTEM AND TO INCREASE THE PREMIUM TAX ON FIRE AND LIGHTNING POLICIES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21 is amended by adding a new subdivision to read:

"(17a) 'Career fire fighter' means a full-time paid employee who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire, and shall include county fire marshalls, deputy fire marshalls, assistant county fire marshalls, or fire inspectors that are part of the county fire marshall's staff."

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

"(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, 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. 128-27(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

1 retire on a deferred retirement allowance upon attaining the age  
 2 of 60 years; provided that such member may retire only upon  
 3 written application to the Board of Trustees setting forth at what  
 4 time, not less than one day nor more than 90 days subsequent to  
 5 the execution and filing thereof, he desires to be retired; and  
 6 further provided that in the case of a member who so separates  
 7 from service on or after July 1, 1967, the aforesated  
 8 requirement of 15 or more years of creditable service shall be  
 9 reduced to 12 or more years of creditable service; and further  
 10 provided that in the case of a member who so separates from  
 11 service on or after July 1, 1971, or whose account is active on  
 12 July 1, 1971, the aforesated requirement of 12 or more years of  
 13 creditable service shall be reduced to five or more years of  
 14 creditable service. Such deferred retirement allowance shall be  
 15 computed in accordance with the provisions of G.S. 128-27(b1),  
 16 provided that such benefits will be computed in accordance  
 17 with subsection (b2) on or after July 1, 1967, but prior to July 1,  
 18 1969; and provided further that such benefits will be computed  
 19 in accordance with subsection (b3) on or after July 1, 1969.

20 b. In lieu of the benefits provided in paragraph a of this  
 21 subdivision, any member who separates from service prior to  
 22 the attainment of the age of 60 years, for any reason other than  
 23 death or retirement for disability as provided in G.S. 128-27(c),  
 24 after completing 20 or more years of creditable service, and  
 25 who leaves his total accumulated contributions in said System  
 26 may elect to retire on an early retirement allowance upon  
 27 attaining the age of 50 years or at any time thereafter; provided  
 28 that such member may so retire only upon written application to  
 29 the Board of Trustees setting forth at what time, not less than  
 30 one day nor more than 90 days subsequent to the execution and  
 31 filing thereof, he desires to be retired. Such early retirement  
 32 allowance so elected shall be equal to the deferred retirement  
 33 allowance otherwise payable at the attainment of the age of 60  
 34 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
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52	43

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- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer or a career fire fighter 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 or a career fire fighter 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 service 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 service retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement officers.
- c. Should a beneficiary who retired on an early or service retirement allowance be reemployed by an employer participating in the Retirement System on a permanent full-time, part-time, temporary, or on fee-for-service basis, whether contractual or otherwise, the retirement allowance shall be

1 suspended if the beneficiary receives or earns any of the  
2 following:

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

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

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

42 Upon his subsequent retirement, he shall be paid a retirement  
43 allowance determined as follows:

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

27                  Sec. 3. G.S. 128-27(a) reads as rewritten:

28                  "(a)   Service Retirement Benefits. –

- 29                  (1)   Any member may retire upon written application to the Board of  
 30                  Trustees setting forth at what time, as of the first day of a calendar  
 31                  month, not less than one day nor more than 90 days subsequent to the  
 32                  execution and filing thereof, he desires to be retired: Provided, that the  
 33                  said member at the time so specified for his retirement shall have  
 34                  attained the age of 60 years and have at least five years of creditable  
 35                  service or shall have completed 30 years of creditable service, or if a  
 36                  fireman, he shall have attained the age of 55 years and have at least  
 37                  five years of creditable service.
- 38                  (2)   Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 39                  (3)   Repealed by Session Laws 1971, c. 325, s. 12.
- 40                  (4)   Any member who was in service October 8, 1981, who had attained 60  
 41                  years of age, may retire upon written application to the Board of  
 42                  Trustees setting forth at what time, as of the first day of a calendar  
 43                  month, not less than one day nor more than 90 days subsequent to the  
 44                  execution and filing thereof, he desires to be retired.

1 (5) Any member who is a law enforcement ~~officer~~, officer or career fire  
2 fighter, and who attains age 50 and completes 15 or more years of  
3 creditable service in this capacity or who attains age 55 and completes  
4 five or more years of creditable service in this capacity, may retire  
5 upon written application to the Board of Trustees setting forth at what  
6 time, as of the first day of a calendar month, not less than one day nor  
7 more than 90 days subsequent to the execution and filing thereof, he  
8 desires to be retired; provided, also, any member who has met the  
9 conditions required by this subdivision but does not retire, and later  
10 becomes an employee other than as a law enforcement ~~officer~~, officer  
11 or career fire fighter, continues to have the right to commence  
12 retirement."

13 Sec. 4. G.S. 128-27(b13) reads as rewritten:

14 "(b13) Service Retirement Allowance of Members Retiring on or after July 1,  
15 ~~1992-1992, but before July 1, 1993.~~ – Upon retirement from service in accordance with  
16 subsection (a) above, on or after July 1, 1992, but before July 1, 1993, a member shall  
17 receive the following service retirement allowance:

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

21 a. If the member's service retirement date occurs on or after his  
22 55th birthday, and completion of five years of creditable service  
23 as a law enforcement officer, or after the completion of 30 years  
24 of creditable service, the allowance shall be equal to one and  
25 seventy hundredths percent (1.70%) of his average final  
26 compensation, multiplied by the number of years of his  
27 creditable service.

28 b. This allowance shall also be governed by the provisions of G.S.  
29 128-27(b8)(2).

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

33 a. If the member's service retirement date occurs on or after his  
34 65th birthday upon the completion of five years of creditable  
35 service or after the completion of 30 years of creditable service  
36 or on or after his 60th birthday upon the completion of 25 years  
37 of creditable service, the allowance shall be equal to one and  
38 seventy hundredths percent (1.70%) of his average final  
39 compensation, multiplied by the number of years of creditable  
40 service.

41 b. This allowance shall also be governed by the provisions of G.S.  
42 128-27(b7)(2a), (2b), and (3)."

43 Sec. 5. G.S. 128-27 is amended by adding a new subsection to read:

1       "(b14) Service Retirement Allowance of Members Retiring on or after July 1,  
 2 1993. – Upon retirement from service in accordance with subsection (a) above, on or  
 3 after July 1, 1993, a member shall receive the following service retirement allowance:

4           (1) A member who is a law enforcement officer or a career fire fighter or  
 5 an eligible former law enforcement officer shall receive a service  
 6 retirement allowance computed as follows:

7           a. If the member's service retirement date occurs on or after his  
 8 55th birthday, and completion of five years of creditable service  
 9 as a law enforcement officer or a career fire fighter, or after the  
 10 completion of 30 years of creditable service, the allowance shall  
 11 be equal to one and seventy hundredths percent (1.70%) of his  
 12 average final compensation, multiplied by the number of years  
 13 of his creditable service.

14           b. This allowance shall also be governed by the provisions of G.S.  
 15 128-27(b8)(2).

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

19           a. If the member's service retirement date occurs on or after his  
 20 65th birthday upon the completion of five years of creditable  
 21 service or after the completion of 30 years of creditable service  
 22 or on or after his 60th birthday upon the completion of 25 years  
 23 of creditable service, the allowance shall be equal to one and  
 24 seventy hundredths percent (1.70%) of his average final  
 25 compensation, multiplied by the number of years of creditable  
 26 service.

27           b. This allowance shall also be governed by the provisions of G.S.  
 28 128-27(b7)(2a), (2b), and (3)."

29       Sec. 6. G.S. 143-166.50 reads as rewritten:

30       "**§ 143-166.50. Retirement benefits for local governmental law-enforcement**  
 31 **~~officers.~~ officers and career fire fighters.**

32       (a) Definitions. – The following words and phrases as used in this Article, unless  
 33 a different meaning is plainly required by the context, have the following meaning:

34           (1) 'Beneficiary' means any person in receipt of a retirement allowance or  
 35 other benefit from a Retirement System.

36           (2) 'Employer' means a county, city, town or other political subdivision of  
 37 the State.

38           (3) 'Law-enforcement officer' means a full-time paid employee of an  
 39 employer, who is actively serving in a position with assigned primary  
 40 duties and responsibilities for prevention and detection of crime or the  
 41 general enforcement of the criminal laws of the State or serving civil  
 42 processes, and who possesses the power of arrest by virtue of an oath  
 43 administered under the authority of the State.

- 1 (4) 'Law-Enforcement Officers' Retirement System' means the system  
2 provided for under Article 12 of Chapter 143 of the General Statutes,  
3 as it existed prior to January 1, 1986.
- 4 (5) 'Local Governmental Employees' Retirement System' means the Local  
5 Governmental Employees' Retirement System of North Carolina  
6 provided for under Article 3 of Chapter 128 of the General Statutes.
- 7 (6) 'Member' means an officer included in the membership of a retirement  
8 system, including former officers no longer employed who also elected  
9 to leave their accumulated contributions on deposit with a Retirement  
10 System.
- 11 (7) 'Officer' means a 'law-enforcement officer.'
- 12 (8) 'State' means the State of North Carolina.
- 13 (9) 'Career fire fighter' means a full-time paid employee who is actively  
14 serving in a position with assigned primary duties and responsibilities  
15 for the prevention, detection, and suppression of fire, and shall include  
16 county fire marshalls, deputy fire marshalls, assistant county fire  
17 marshalls, or fire inspectors that are part of the county fire marshall's  
18 staff.

19 (b) Basic Retirement System. – On and after January 1, 1986, law-enforcement  
20 officers employed by an employer shall be members of the Local Government  
21 Employees' Retirement System, and beneficiaries who were last employed as officers  
22 by an employer, or who are surviving beneficiaries of officers last employed by an  
23 employer, are beneficiaries of the Local Governmental Employees' Retirement System  
24 and paid in benefit amounts then in effect. All members of the Law- Enforcement  
25 Officers' Retirement System last employed and paid by an employer are members of the  
26 Local Retirement System.

27 (c) Rights. – Notwithstanding any other provisions of law, any accrued or  
28 inchoate rights of a member of the Law-Enforcement Officers' Retirement System as of  
29 his transfer to the Local Governmental Employees' Retirement System on January 1,  
30 1986, including the rights to a vested deferred retirement allowance and to commence  
31 retirement at certain ages with required years of service as a law-enforcement officer,  
32 may in no way be diminished; provided, however, in no event may a member  
33 commence retirement and continue membership service with the same Retirement  
34 System after January 1, 1986.

35 (d) Court Cost Receipts. – Of the sum derived from the cost of court provided for  
36 in G.S. 7A-304(a)(3), the amount designated for this Article, except for the amount  
37 designated for the provisions of G.S. 143-166.50(e), shall be paid over to the pension  
38 accumulation fund of the Local Governmental Employees' Retirement System and shall  
39 offset, to the extent of these receipts, the employers' normal contribution rate required in  
40 G.S. 128-30(d)(2) as it pertains to law enforcement officers.

41 (e) Supplemental Retirement Income Plan for Local Governmental Law-  
42 Enforcement Officers. – As of January 1, 1986, all law-enforcement officers employed  
43 by a local government employer, are participating members of the Supplemental  
44 Retirement Income Plan as provided by Article 5 of Chapter 135 of the General



1 Statutes. In addition to the contributions transferred from the Law-Enforcement  
2 Officers' Retirement System, participants may make voluntary contributions to the  
3 Supplemental Retirement Income Plan to be credited to the designated individual  
4 accounts of participants; provided, in no instance shall the total contributions by a  
5 participant exceed ten percent (10%) of a participant's compensation within any  
6 calendar year. From July 1, 1987, until July 1, 1988, local government employers of law  
7 enforcement officers shall contribute an amount equal to at least two percent (2%) of  
8 participating local officers' monthly compensation to the Supplemental Retirement  
9 Income Plan to be credited to the designated individual accounts of participating local  
10 officers; and on and after July 1, 1988, local government employers of law enforcement  
11 officers shall contribute an amount equal to five percent (5%) of participating local  
12 officers' monthly compensation to the Supplemental Retirement Income Plan to be  
13 credited to the designated individual accounts of participating local officers.

14 Beginning July 1, 1993, local government employers of career fire fighters shall  
15 contribute an amount equal to at least one percent (1%) of participating local career fire  
16 fighters' monthly compensation to the Supplemental Retirement Income Plan to be  
17 credited to the designated individual accounts of participating local career fire fighters;  
18 and on and after July 1, 1994, local government employers of career fire fighters shall  
19 contribute an amount equal to at least an additional one percent (1%) of participating  
20 local professional fire fighters' monthly compensation to the Supplemental Retirement  
21 Income Plan each year until the percentage equals five percent (5%).

22 Additional contributions shall also be made to the individual accounts of all  
23 participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the  
24 sum of one dollar and twenty-five cents (\$1.25) for each cost of court collected under  
25 G.S. 7A-304."

26 Sec. 7. G.S. 58-84-10 reads as rewritten:

27 **"§ 58-84-10. Tax on receipts for premiums.**

28 Every insurance company, corporation, or association as aforesaid shall, within 75  
29 days from December 31 of each year, deliver and pay to the State Insurance  
30 Commissioner the sum of ~~fifty cents (50¢)~~ two dollars (\$2.00) out of and from every one  
31 hundred dollars (\$100.00), and at that rate, upon the amount of all premiums written on  
32 fire and lightning policies covering property situated within the limits of such towns and  
33 cities during the year ending December 31, or for such portion of each year as said  
34 company, corporation, or association shall have done business in said towns and cities."

35 Sec. 8. G.S. 58-84-25 reads as rewritten:

36 **"§ 58-84-25. Disbursement of funds by Insurance Commissioner.**

37 The Insurance Commissioner shall deduct the sum of ~~three percent (3%)~~ seventy-five  
38 hundredths of one percent (.75%) from the money so collected from the insurance  
39 companies, corporations, or associations, as aforesaid, and pay the same over to the  
40 treasurer of the State Firemen's Association for general purposes. The Insurance  
41 Commissioner shall deduct the sum of ~~two percent (2%)~~ one-half of one percent (.50%)  
42 from the money so collected from the insurance companies, corporations, or  
43 associations, as aforesaid, and retain the same in the budget of the Department of  
44 Insurance for the purpose of administering the disbursement of funds by the board of

1 trustees in accordance with the provisions of G.S. 58-84-35. The remainder of the  
2 money so collected from the insurance companies, corporations, or associations, as  
3 aforesaid, doing business in the towns and cities in the State having or that may  
4 hereafter have organized fire departments as provided in this Article, said Insurance  
5 Commissioner shall pay to the treasurer of each town or city to be held by him as a  
6 separate and distinct fund, and he shall immediately pay the same to the treasurer of the  
7 local board of trustees upon his election and qualification, for the use of the board of  
8 trustees of the firemen's local relief fund in each town or city, which board shall be  
9 composed of five members, residents of said city or town as hereinafter provided for, to  
10 be used by it for the purposes as named in G.S. 58-84-35."

11 Sec. 9. G.S. 58-84-35 is amended by adding a new subdivision to read:

12 "(7) To make contributions to the Local Governmental Employees'  
13 Retirement System equal to the normal and accrued liability rates for  
14 any full-time career fire fighters that are employed by that employer  
15 and are members of the Local Governmental Employees' Retirement  
16 System."

17 Sec. 10. This act becomes effective July 1, 1993, and applies to persons  
18 retiring on or after that date.