

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 757

Short Title: Modify Benefit Restrictions.

(Public)

Sponsors: Senators Sherron; and Carpenter.

Referred to: Pensions and Retirement.

April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BENEFIT RESTRICTIONS FOR REEMPLOYED
RETIREES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
SYSTEM, IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
SYSTEM, AND IN THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. 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 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, the aforesated

1 requirement of 15 or more years of creditable service shall be
 2 reduced to 12 or more years of creditable service; and further
 3 provided that in the case of a member who so separates from
 4 service on or after July 1, 1971, or whose account is active on
 5 July 1, 1971, the aforesaid requirement of 12 or more years of
 6 creditable service shall be reduced to five or more years of
 7 creditable service. Such deferred retirement allowance shall be
 8 computed in accordance with the provisions of G.S. 128-27(b1),
 9 provided that such benefits will be computed in accordance
 10 with subsection (b2) on or after July 1, 1967, but prior to July 1,
 11 1969; and provided further that such benefits will be computed
 12 in accordance with subsection (b3) on or after July 1, 1969.

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

	Age at Retirement	Percentage Reduction
30	59	7
31	58	14
32	57	20
33	56	25
34	55	30
35	54	35
36	53	39
37	52	43
38	51	46
39	50	50

40 b1. In lieu of the benefits provided in paragraphs a and b of this
 41 subdivision, any member who is a law enforcement officer at
 42 the time of separation from service prior to the attainment of the
 43 age of 50 years, for any reason other than death or disability as
 44 provided in this Article, after completing 15 or more years of

1 creditable service in this capacity immediately prior to
2 separation from service, and who leaves his total accumulated
3 contributions in this System, may elect to retire on a deferred
4 early retirement allowance upon attaining the age of 50 years or
5 at any time thereafter; provided, that the member may
6 commence retirement only upon written application to the
7 Board of Trustees setting forth at what time, as of the first day
8 of a calendar month, not less than one day nor more than 90
9 days subsequent to the execution and filing thereof, he desires
10 to commence retirement. The deferred early retirement
11 allowance shall be computed in accordance with the service
12 retirement provisions of this Article pertaining to law
13 enforcement officers.

14 b2. In lieu of the benefits provided in paragraphs a and b of this
15 subdivision, any member who is a law enforcement officer at
16 the time of separation from service prior to the attainment of the
17 age of 55 years, for any reason other than death or disability as
18 provided in this Article, after completing five or more years of
19 creditable service in this capacity immediately prior to
20 separation from service, and who leaves his total accumulated
21 contributions in this System may elect to retire on a deferred
22 service retirement allowance upon attaining the age of 55 years
23 or at any time thereafter; provided, that the member may
24 commence retirement only upon written application to the
25 Board of Trustees setting forth at what time, as of the first day
26 of a calendar month not less than one day nor more than 90
27 days subsequent to the execution and filing thereof, he desires
28 to commence retirement. The deferred service retirement
29 allowance shall be computed in accordance with the service
30 retirement provisions of this Article pertaining to law
31 enforcement officers.

32 c. Should a beneficiary who retired on an early or service
33 retirement allowance be ~~reemployed~~ reemployed, otherwise
34 engaged to perform services, by an employer participating in
35 the Retirement System on a ~~permanent full-time,~~ part-time,
36 temporary, interim, or on fee-for-service basis, whether
37 contractual or otherwise, ~~the retirement allowance shall be~~
38 suspended if the beneficiary receives or earns any of the following:

- 39 1. ~~Salary or fees or both in excess of one thousand five~~
40 ~~hundred dollars (\$1,500) per month;~~
41 2. ~~Salary or fees or both in excess of thirteen thousand five~~
42 ~~hundred dollars (\$13,500) during any consecutive 12~~
43 ~~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 fifty percent (50%) of the reported compensation
32 during the 12 months of service preceding the effective date of
33 retirement, as hereinafter indexed, then the retirement
34 allowance shall be suspended as of the first day of the month
35 following the month in which the reemployment earnings
36 exceed the amount above, for the balance of the calendar year.
37 The retirement allowance of the beneficiary shall be reinstated
38 as of January 1 of each year following suspension. The amount
39 that may be earned before suspension shall be increased on
40 January 1 of each year by the ration of the Consumer Price
41 Index to the Index one year earlier, calculated to the nearest
42 tenth of a percent (1/10 of 1%).

- 43 d. Should a A-beneficiary who retired on an early or service
44 retirement allowance be whose retirement allowance is suspended

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

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

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

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

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

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

41 Sec. 3. G.S. 135-3(8) reads as rewritten:

42 "(8) The provisions of this subsection (8) shall apply to any member
43 whose membership is terminated on or after July 1, 1963 and who

1 becomes entitled to benefits hereunder in accordance with the
2 provisions hereof.

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

b. In lieu of the benefits provided in paragraph a of this subdivision (8), 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 20 or more years of creditable service, 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.

Retirement	Age at Reduction	Percentage
	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

1 retirement provisions of this Article pertaining to law-
2 enforcement officers.

3 b2. In lieu of the benefits provided in paragraphs a and b of this
4 subdivision, any member who is a law-enforcement officer at
5 the time of separation from service prior to the attainment of the
6 age of 55 years, for any reason other than death or disability as
7 provided in this Article, after completing five or more years of
8 creditable service in this capacity immediately prior to
9 separation from service, and who leaves his total accumulated
10 contributions in this System may elect to retire on a deferred
11 early retirement allowance upon attaining the age of 55 years or
12 at any time thereafter; provided, that the member may
13 commence retirement only upon written application to the
14 Board of Trustees setting forth at what time, as of the first day
15 of a calendar month not less than one day nor more than 90
16 days subsequent to the execution and filing thereof, he desires
17 to commence retirement. The deferred early retirement
18 allowance shall be computed in accordance with the service
19 retirement provisions of this Article pertaining to law-
20 enforcement officers.

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

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

1 The suspension of the retirement allowance shall be effective as
2 of the first day of the month in which the beneficiary meets the
3 conditions set forth in conditions 1 or 4 of this paragraph and
4 effective as of the first day of the next succeeding month
5 following the month in which the beneficiary meets the
6 conditions set forth in conditions 2 or 3 of this paragraph. The
7 retirement allowance shall be reinstated the month following
8 termination of reemployment or the month following the month
9 in which the conditions set forth in this paragraph are no longer
10 met. The Board of Trustees may adjust the monetary limits in
11 this paragraph by an amount equivalent to any across-the-board
12 salary increase granted to employees of the State by the General
13 Assembly. Each employer shall report information monthly to
14 the Board of Trustees on forms provided by the Board on each
15 reemployed beneficiary sufficient for the effective enforcement
16 of this paragraph. Notwithstanding the foregoing, any
17 beneficiary may irrevocable elect to recommence membership
18 in the Retirement System immediately upon being restored to
19 service, whereupon the retirement allowance shall cease, and if
20 such beneficiary earns an amount in any calendar year which
21 exceeds fifty percent (50%) of the reported compensation
22 during the 12 months of service preceding the effective date of
23 retirement, as hereinafter indexed, then the retirement
24 allowance shall be suspended as of the first day of the month
25 following the month in which the reemployment earnings
26 exceed the amount above, for the balance of the calendar year.
27 The retirement allowance of the beneficiary shall be reinstated
28 as of January 1 of each year following suspension. The amount
29 that may be earned before suspension shall be increased on
30 January 1 of each year by the ration of the Consumer Price
31 Index to the Index one year earlier, calculated to the nearest
32 tenth of a percent (1/10 of 1%).

- 33 d. Should a A-beneficiary who retired on an early or service
34 retirement allowance under this Chapter be whose retirement
35 allowance is suspended in accordance with the provisions of
36 paragraph e and who is restored to service as an employee or
37 teacher, then the retirement allowance shall cease as of the first
38 of the month following the month in which the beneficiary is
39 restored to service and the beneficiary shall become a member
40 of the Retirement System and shall contribute thereafter as
41 allowed by law at the uniform contribution payable by all
42 members.

43 Upon his subsequent retirement, he shall be paid a
44 retirement 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 restrictions; 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 e. Any beneficiary who retired on an early or service retirement
28 allowance as an employee of any State department, agency or
29 institution under the Law Enforcement Officers' Retirement
30 System and becomes employed as an employee by a State
31 department, agency, or institution as an employer participating
32 in the Retirement System shall become subject to the provisions
33 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
34 1989."
- 35 Sec. 4. This act becomes effective January 1, 1994.