

NORTH CAROLINA GENERAL ASSEMBLY
1969 SESSION

CHAPTER 1223
HOUSE BILL 409

1 AN ACT TO MAKE CERTAIN AMENDMENTS TO CHAPTER 135 OF THE GENERAL
2 STATUTES RELATING TO THE TEACHERS' AND STATE EMPLOYEES'
3 RETIREMENT SYSTEM.
4

5 The General Assembly of North Carolina do enact:
6

7 **Section 1.** Employment or re-employment, (a) Subdivision (6) of G.S. 135-3, as the
8 same appears in the 1967 Cumulative Supplement, is hereby amended by rewriting the same to
9 read as follows:

10 "(6) No person who becomes a teacher or employee, as the terms are defined in
11 this Chapter, shall thereby become a member of the Retirement System who
12 is elected, appointed, employed or re-employed after he has attained the age
13 of 62 years: Provided, however, that this will not apply to any member
14 whose account is active upon his return to service."

15 (b) Subdivision d of subdivision (7) of G.S. 135-3 is hereby amended by adding
16 after the word "early" in line one the words "or service" and by striking out the words and
17 figures "60 years" in line three and inserting therefor the words and figures "62 years".

18 **Sec. 2.** Service retirement. (a) The second sentence of Subdivision (8)a of G.S. 135-
19 3, as the same appears in the 1967 Cumulative Supplement, is hereby amended by rewriting the
20 same to read as follows:

21 "Such deferred retirement allowance shall be computed in accordance with the provisions
22 of Section 135-5, Subsection (b1); provided that such benefits will be computed in accordance
23 with Subsection (b2) on or after July 1, 1967, but prior to July 1, 1969; and provided further
24 that such benefits will be computed in accordance with Subsection (b3) on or after July 1,
25 1969."

26 (b) The first four lines of Subsection (b2) of G.S. 135-5, as the same appear in the
27 1967 Cumulative Supplement, are hereby amended by rewriting the same to read as follows:

28 "(b2) Service Retirement Allowance of Members Retiring on or after July 1, 1967, but
29 prior to July 1, 1969. Upon retirement from service in accordance with Subsection (a) above,
30 on or after July 1, 1967, but prior to July 1, 1969, a member shall receive a service retirement
31 allowance computed as follows:"

32 (c) G.S. 135-5, is hereby amended by adding a new subsection, to be designated as
33 Subsection (b3), to be inserted immediately following (b2), as the same appears in the 1967
34 Cumulative Supplement, as amended, and to read as follows:

35 "(b3) Service Retirement Allowances of Members Retiring on or after July 1, 1969. Upon
36 retirement from service, in accordance with subsection (a) above, on or after July 1, 1969, a
37 member shall receive a service retirement allowance computed as follows:

38 "(1) If the member's service retirement date occurs on or after his 65th birthday,
39 regardless of his years of creditable service, or on or after his 62nd birthday
40 and the completion of 30 years of creditable service, such allowance shall be
41 equal to one and one quarter per centum (1-1/4%) of the portion of his
42 average final compensation not in excess of fifty-six hundred dollars
43 (\$5,600.00) plus one and one-half per centum (1-1/2%) of the portion of

- 1 such compensation in excess of fifty-six hundred dollars (\$5,600.00),
2 multiplied by the number of years of his creditable service.
- 3 "(2) If the member's service retirement date occurs before his 65th birthday and
4 prior to his completion of 30 or more years of creditable service, his service
5 retirement allowance shall be computed as in (1) above, but shall be reduced
6 by one quarter of one per cent (1/4 of 1%) thereof for each month by which
7 his retirement date precedes the first day of the month coincident with or
8 next following his 65th birthday.
- 9 "(3) If the member's service retirement date occurs before his 62nd birthday but
10 on or after his completion of 30 or more years of creditable service, his
11 service retirement allowance shall be computed as in (1) above, but shall be
12 reduced by one quarter of one per cent (1/4 of 1%) thereof for each month
13 by which his retirement date precedes the first day of the month coincident
14 with or next following his 62nd birthday.
- 15 "(4) Notwithstanding the foregoing provisions, any member whose creditable
16 service commenced prior to July 1, 1963, shall receive not less than the
17 benefit provided by G.S. 135-5(b)."

18 **Sec. 3.** Armed service credit. Subsection (f) of G.S. 135-4, as the same appears in
19 the 1967 Cumulative Supplement, is hereby amended by rewriting the same to read as follows:

20 "(f) Armed Service Credit.

- 21 "(1) Teachers and other State employees who entered the armed services of the
22 United States on or after September 16, 1940, and prior to February 17,
23 1941, and who returned to the service of the State within a period of two
24 years after they were first eligible to be separated or released from such
25 armed services under other than dishonorable conditions shall be entitled to
26 full credit for all prior service.
- 27 "(2) Teachers and other State employees who entered the armed services of the
28 United States on or after September 16, 1940, and who returned to the
29 service of the State prior to October 1, 1952, or who devote not less than ten
30 years of service to the State after they are separated or released from such
31 armed services under other than dishonorable conditions, shall be entitled to
32 full credit for all prior service, and, in addition they shall receive
33 membership service credit for the period of service in such armed services
34 up to the date they were first eligible to be separated or released therefrom,
35 occurring after the date of establishment of the Retirement System.
- 36 "(3) Teachers and other State employees who enter the armed services of the
37 United States on or after July 1, 1950, or who engage in active military
38 service on or after July 1, 1950, and who return to the service of the State
39 within a period of two years after they are first eligible to be separated or
40 released from such active military service under other than dishonorable
41 conditions shall be entitled to full membership service credit for the period
42 of such active service in the armed services.
- 43 "(4) Under such rules as the board of trustees shall adopt, credit will be provided
44 by the Retirement System with respect to each such teacher or other State
45 employee in the amounts that he would have been paid during such service
46 in such armed services on the basis of his earnable compensation when such
47 service commenced. Such contributions shall be credited to the individual
48 account of the member in the annuity savings fund, in such manner as the
49 board of trustees shall determine, but any such contributions so credited and
50 any regular interest thereon shall be available to the member only in the
51 form of an annuity, or benefit in lieu thereof, upon his retirement on a

service, disability or special retirement allowance; and in the event of cessation of membership or death prior thereto, any such contributions so credited and regular interest thereon shall not be payable to him or on his account, but shall be transferred from the annuity savings fund to the pension accumulation fund. If any payments were made by a member on account of such service as provided by Subdivision (5) of Subsection (b) of 135-8, the board of trustees shall refund to or reimburse such member for such payments.

"(5) The provisions of this subsection shall also apply to members of the national guard with respect to teachers and State employees who are called into Federal service or who are called into State service, to the extent that such persons fail to receive compensation for performance of the duties of their employment other than for service in the national guard."

Sec. 4. Leaves of absence. G.S. 135-4 is hereby amended by adding a new subsection at the end thereof, to be designated as Subsection (h), and to read as follows:

"(h) During periods when a member is on leave of absence and is receiving less than his full compensation, he will be deemed to be in service only if he is contributing to the Retirement System as provided in G.S. 135-8(b)(5). If he is so contributing, the annual rate of compensation paid to such employee immediately before the leave of absence began will be deemed to be the actual compensation rate of the employee during the leave of absence."

Sec. 5. Application for disability benefits. The first paragraph of Subsection (c) of G.S. 135-5, as the same appears in the 1967 Cumulative Supplement, is hereby amended by rewriting the same to read as follows:

"Disability Retirement Benefits. Upon the application of a member or of his employer, any member who has had ten or more years of creditable service may be retired by the board of trustees, on the first day of any calendar month, not less than thirty and not more than ninety days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired."

Sec. 6. Disability retirement. (a) The first five lines of Subsection (d1) of G.S. 135-5 are hereby amended by rewriting the same to read as follows:

"(d1) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1963, but prior to July 1, 1969. Upon retirement for disability, in accordance with Subsection (c) above, on or after July 1, 1963, but prior to July 1, 1969, a member shall receive a service retirement allowance if he has attained the age of sixty years, otherwise he shall receive a disability retirement allowance which shall be computed as follows:"

(b) G.S. 135-5 is hereby amended by adding a new subsection immediately following Subsection (d1), to be designated as Subsection (d2), and to read as follows:

"(d2) Allowance on Disability Retirement of Persons Retiring on or after July 1, 1969. Upon retirement for disability, in accordance with Subsection (c) above, on or after July 1, 1969, a member shall receive a service retirement allowance if he has attained the age of sixty years, otherwise he shall receive a disability retirement allowance which shall be computed as follows:

"(1) Such allowance shall be equal to the service retirement allowance which would have been payable had he continued in service without further change in compensation to the age of sixty-five years, minus the actuarial equivalent of the contributions he would have made during such continued service.

"(2) Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1963, shall receive not less than the benefit provided by G.S. 135-5(d)."

Sec. 7. Refund provisions. Subsection (f) of G.S. 135-5, as the same appears in the 1967 Cumulative Supplement, is hereby amended by rewriting the first sentence to read as follows:

"Return of Accumulated Contributions. Should a member cease to be a teacher or State employee except by death or retirement under the provisions of this Chapter, he shall upon submission of an application be paid, not earlier than 60 days from receipt of an acceptable application, the sum of his contributions and one-half of the accumulated regular interest thereon, provided that he has not in the meantime returned to service."

Sec. 8. Election of optional allowance. The first paragraph of Subsection (g) of G.S. 135-5, as the same appears in the 1967 Cumulative Supplement, is hereby amended by striking out the colon following the word "below" in line six in the first sentence thereof, inserting a period in lieu thereof, striking out the remainder of the sentence, striking out the next sentence, and by striking out the last sentence of the paragraph.

Sec. 9. Death benefit provisions. (a) The first paragraph of Subsection (1) of G.S. 135-5 is hereby amended by striking out all of said paragraph following the semicolon in the next to the last line thereof and inserting in lieu thereof the following:

"provided that he shall not have retired or that payment of a refund of his contributions shall not have been issued by the Retirement System."

(b) G.S. 135-5(1), as the same appears in the 1967 Cumulative Supplement, is hereby amended by adding the following paragraphs at the end of said subsection:

"In administration of the death benefit the following shall apply:

"(1) For the purpose of determining eligibility only, in this Subsection 'calendar year' shall mean any period of twelve consecutive months or, if less, the period covered by an annual contract of employment. For all other purposes in this Subsection calendar year' shall mean the twelve months beginning January 1 and ending December 31.

"(2) Last day of actual service shall be:

"a. When employment has been terminated (except by retirement), the last day the member actually worked,

"b. When employment has not been terminated, the date on which an absent member's sick and annual leave expire, unless he is on approved leave of absence and is in service under the provisions of G.S. 135-4(h).

"(3) A member shall be deemed to have retired on the day he becomes eligible to receive monthly retirement benefits.

"(4) A member in service who has filed an early election of option, without designating a date of retirement, is deemed to have retired on the first day of the month following the date of his death.

"(5) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 135-4(h)."

Sec. 10. Time of making application for retirement. G.S. 135-5, as the same appears in the 1967 Cumulative Supplement, is hereby amended by striking out all of the present Subsection (m).

Sec. 11. Early election of option. G.S. 135-5 is hereby amended by inserting a new subsection, to be designated as Subsection (m), and to read as follows:

"(m) Early Election of Option. Any member in service, after attainment of age 55 or completion of 30 years of creditable service, may elect one of the following options which would become effective and remain in effect until a final election has been made:

1 "(1) Designation of a single beneficiary who would receive the monthly benefit
2 provided by Option 2 of Subsection (g) above. Such benefit would be
3 computed by assuming that the member had retired on the first day of the
4 month following the date of his death.

5 "(2) Designation of a single beneficiary who would have the right upon the
6 member's death, to elect to receive either the benefit under (1) of this 1417
7 Subsection or a lump sum return of the member's accumulated contributions.

8 Such elections would become effective under the conditions stated if a form
9 provided for this purpose by the board of trustees is executed and filed with the
10 Retirement System 30 days or more before the member's death."

11 **Sec. 12.** Cost of living increase. G.S. 135-5 is hereby amended by adding at the end
12 thereof a new subsection, to be designated as Subsection (o), and to read as follows:

13 "(o) Post Retirement Increases in Allowances. As of December 31, 1969, the ratio of the
14 Consumer Price Index to such index one year earlier shall be determined. If such ratio indicates
15 an increase that equals or exceeds three per centum, each beneficiary receiving a retirement
16 allowance as of December 31, 1968, shall be entitled to have his allowance increased three per
17 centum effective July

18 "As of December 31st of each year after 1969, the ratio of the Consumer Price Index to
19 such index one year earlier shall be determined.

20 "(1) If such ratio indicates an increase that equals or exceeds three per centum,
21 each beneficiary receiving a retirement allowance as of the end of the
22 preceding year shall be entitled to have his allowance increased three per
23 centum effective on July 1st of the year following the date of determination,
24 provided that any such increase in allowances shall become effective only if
25 the additional liabilities on account of such increase do not require an
26 increase in the total employer rate of contributions.

27 "(2) If such ratio indicates an increase of less than three per centum for any year,
28 the index at the end of such year will be compared to the index at the end of
29 1968, or if later, at the end of the last year when an increase of three per
30 centum or more was indicated.

31 "If such comparison indicates an increase of three per centum or more,
32 each beneficiary receiving an allowance at the beginning of the period
33 encompassed by the comparison shall be entitled to have his allowance
34 increased three per centum effective on July 1st of the year following such
35 period, subject to the proviso stated in (1) above.

36 "The allowance of a surviving annuitant of a beneficiary whose allowance is increased
37 under this Subsection shall, when and if payable, be increased by the same per centum.

38 "Any increase in allowance granted hereunder shall be permanent, irrespective of any
39 subsequent decrease in the Consumer Price Index, and shall be included in determining any
40 subsequent increase.

41 "For purposes of this Subsection, Consumer Price Index shall mean the Consumer Price
42 Index (all items United States City average), as published by the United States Department of
43 Labor, Bureau of Labor Statistics."

44 **Sec. 13.** Employer contributions. Subsection (d) of G.S. 135-8, as the same appears
45 in the 1967 Cumulative Supplement, is hereby amended by adding the following sentence
46 immediately after the first sentence in Subdivision (1) thereof:

47 "In addition, such contributions by employers will be required for each member on
48 leave of absence who makes monthly contributions in accordance with (b)(5) above,
49 and will be based on the salary or wage the member was receiving at the time the
50 leave of absence was granted."

1 **Sec. 14.** Re-employment of retired teachers and employees. (a) G.S. 135-18 is
2 hereby repealed.

3 (b) G.S. 135-3 is hereby amended by adding a new Subdivision e at the end of
4 Subdivision (7) to read as follows:

5 "e. Should a teacher or employee who retired on an early or service
6 retirement allowance be restored to service after the attainment of the
7 age of 62 years, his retirement allowance shall be reduced to the
8 extent necessary (if any) so that the sum of the retirement allowance
9 and earnings from employment by a unit of the Retirement System
10 for any year will not exceed the member's annual rate of
11 compensation when he retired. Provided, however, that under no
12 circumstances will the member's retirement allowance be reduced
13 below the amount of his annuity as defined in G.S. 135-1(3)."

14 (c) G.S. 135-3 is hereby amended by rewriting Subdivision c of Subdivision (8), as
15 the same appears in the 1967 Cumulative Supplement, to read as follows:

16 "c. The provisions of paragraphs d and e of the preceding Subdivision
17 (7) shall apply equally to this Subdivision (8)."

18 **Sec. 15.** Transfers from local system. Subsection (a) of G.S. 135-18.1, as the same
19 appears in the 1967 Cumulative Supplement, is hereby amended by striking out the period at
20 the end thereof, inserting a semicolon in lieu thereof, and adding the following words:

21 "Provided further, with respect to any person who becomes a member of this Retirement
22 System after July 1, 1969, the local system agrees to transfer to this Retirement System the
23 amount of reserve held in the local system as a result of previous contributions of the employer
24 on behalf of the transferring employee."

25 **Sec. 16.** Exclusion of judges of Court of Appeals. Subdivision (10) of G.S. 135-1,
26 as the same appears in the 1967 Cumulative Supplement, is hereby amended by adding in line
27 five the words "any judge of the Court of Appeals," immediately following the words
28 "Supreme Court,".

29 **Sec. 17.** Administration of system — annual valuation. Subsection (o) of
30 G.S. 135-6 is hereby amended by inserting the words "and interest assumption rate"
31 immediately following the word "tables" in line one thereof.

32 **Sec. 18.** References. All references in this Act to sections of the General Statutes
33 are references to the 1964 Replacement Volume except references to the 1967 Cumulative
34 Supplement, in which case references are to the statutes in the 1967 Cumulative Supplement to
35 the 1964 Replacement Volume of the General Statutes.

36 **Sec. 18 1/2.** Notwithstanding any other provisions of this Act, all new or increased
37 benefits provided herein shall be payable subject to the availability of funds as determined by
38 the board of trustees of the Retirement System, and no additional appropriations shall be made
39 by the General Assembly of 1969 or any future session of the General Assembly to provide the
40 above referred to new or increased benefits.

41 **Sec. 19.** All laws and clauses of laws in conflict with this Act are hereby repealed.

42 **Sec. 20.** This Act shall become effective July 1, 1969.

43 In the General Assembly read three times and ratified, this the 2nd day of July,
44 1969.