

GENERAL ASSEMBLY OF NORTH CAROLINA  
1983 SESSION

CHAPTER 468  
SENATE BILL 293

AN ACT TO AMEND THE LAWS GOVERNING THE LAW ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND SO AS TO RECEIVE A FAVORABLE DETERMINATION AS A QUALIFIED TRUST BY THE INTERNAL REVENUE SERVICE AND TO THEN CAUSE A TAX SHELTERING FROM CURRENT INCOME OF MEMBERS' CONTRIBUTIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-166 and G.S. 143-166.01 are amended by deleting the phrase "LAW-ENFORCEMENT OFFICERS' BENEFIT AND RETIREMENT FUND" from the title and substituting in lieu thereof the phrase "LAW ENFORCEMENT OFFICERS' RETIREMENT SYSTEM"; by deleting the phrase "Law-Enforcement Officers' Benefit and Retirement Fund" from the captions and substituting in lieu thereof the phrase "Law Enforcement Officers' Retirement System"; by deleting the phrase "Law-Enforcement Officers' Benefit and Retirement Fund" wherever it appears and substituting in lieu thereof the phrase "Law Enforcement Officers' Retirement System"; and, by deleting the phrase "Retirement Fund" wherever it appears and substituting in lieu thereof the phrase "Retirement System".

Sec. 2. G.S. 143-166 and G.S. 143-166.01 are amended by deleting the phrase "Board of Commissioners" wherever it appears and by substituting in lieu thereof the phrase "Board of Trustees".

Sec. 3. G.S. 143-166(a) is rewritten to read:

"(a) A retirement system is established and placed under the administration of a board of trustees for the purpose of providing retirement allowances under the provisions of this section for eligible law enforcement officers, as an employees' trust in conformance with Section 401(a) of the Internal Revenue Code of 1954 as amended. It shall be known as the 'Law Enforcement Officers' Retirement System' and by such name all of its business transacted, its funds invested, and its cash and other property held.

To provide the employer funding of benefits under this section and the death benefits under the employee welfare plan provided in G.S. 143-166.02, there shall be paid (i) contributions of two dollars (\$2.00) for each cost of court assessed under G.S. 7A-304 and (ii) contributions by the employers of law enforcement officers to the extent expressly required in annual and biennial appropriation acts or any other acts of the North Carolina General Assembly."

Sec. 4. G.S. 143-166(i) is amended by deleting the first, third and fourth paragraphs thereof.

Sec. 5. G.S. 143-166(q) is amended by deleting the word "section" wherever it appears and substituting in lieu thereof the word "Article".

Sec. 6. G.S. 143-166(r), (s), (t), (u), (v) and (w) are repealed.

Sec. 7. G.S. 143-166(z) is redesignated as a new section designated as G.S. 143-166.02 and is amended by the addition of a new subsection at the end thereof designated as subdivision "(6)" to read:

"(6) Accidental Death Benefit. In addition to all other death benefits provided by this section, there shall be paid an amount from the Plan not to exceed two thousand one hundred dollars (\$2,100) in total on account of the death of any law enforcement officer, without regard to membership in the Retirement System, caused by an accident while in the actual performance of duty. In order for this benefit to be paid, the death of the officer must have occurred within one year of the accident and a claim made by the beneficiaries made within one year of the accident and a claim made by the beneficiaries made within one year of the death of the officer. The beneficiaries and amounts payable hereunder are:

- a. the sum of one thousand dollars (\$1,000) as partial reimbursement for burial expenses payable to the surviving spouse, parent or legal representatives of the officer;
- b. the sum of five hundred dollars (\$500.00) to the surviving spouse of the officer or, if there is no surviving spouse, the legal representatives of the officer; and
- c. the sum of two hundred dollars (\$200.00) to each child of the officer who is under the age of 18 years or who is disabled."

Sec. 8. Article 12 of Chapter 143 of the General Statutes is amended by the addition of a new section to read:

**"§ 143-166.03. Special annuity accounts.** – (a) The State and any county, city, town or political subdivision thereof (hereinafter referred to as an employer), and any member, may elect to pay special contributions to be credited to designated individual accounts of members of the Retirement System, in addition to any contributions as otherwise required by this Article, to provide annuities to members payable at retirement and throughout life which are in addition to the basic service and disability retirement allowances under G.S. 143-166(y). Such election by an employer, other than the State, shall be effective only after a written agreement is entered into between an employer and the Board of Trustees of the Retirement System, under conditions as are hereinafter required. The special contributions paid by employers are hereby declared expended as a public purpose.

(b) Contribution Limits and Nondiscrimination. A member may elect to contribute up to but no more than ten percent (10%) of his compensation within any calendar year into an account. An employer may elect to contribute up to but no more than fifteen percent (15%) of a member's compensation within any calendar year into a member's account, reduced by any percentage contributed by the member. Provided, an employer making an election to pay special contributions for members of the Retirement System shall:

- (1) pay special contributions for all of their employees who are members of this Retirement System; and

- (2) pay identical percentage rates of special contribution for all members.

(c) Benefits. The special contributions credited to the designated individual accounts of members shall accumulate together with such rate of interest as the Board of Trustees may from time to time determine and shall, upon the retirement of a member, provide such additional retirement allowance as the Board of Trustees shall determine on the basis of the tables and rate of interest last adopted by the Board of Trustees for this purpose. In order that future retirement allowances of members as a result of the special contributions of employers might be determinable, any agreement between an employer and the Board of Trustees shall include the requirements that:

- (1) the employer will pay special contributions for minimum periods of 24 consecutive months, but may cease such contributions within said 24 months upon written notice to the Board of Trustees; and

- (2) when the employer elects to cease special contributions within said 24 months in (1) above, special contributions may not be resumed by the employer for a period of 12 consecutive months from the month of cessation.

(d) No Reversions to Employers. Upon the death or withdrawal from the Retirement System of a member for whom an employer has paid special contributions, such contributions shall not revert to the employer but shall be redesignated by the employer for the individual accounts of other members.

(e) State Contributions for State-Employed Members. Under all other requirements and conditions herein provided, the State of North Carolina shall contribute to the individual accounts of members who are employed by the State an amount equal to five percent (5%) of the compensation of each such member. The special contributions so paid shall be paid from the same source as a member's compensation and shall be in addition to the State's contributions to fund the basic service and disability retirement allowances provided under the Retirement System.

(f) The provisions of the Retirement System pertaining to administration and management of funds under G.S. 143-166 are hereby made applicable to special annuity accounts."

Sec. 9. Article 12 of Chapter 143 of the General Statutes is amended by the addition of a new section to read:

**"§ 143-166.04. Separate benefit plan.** – (a) One dollar (\$1.00) of the sum derived from the cost of court provided for in G.S. 7A-304 shall be set aside and held in a separate fund to be used by the Board of Trustees of the Retirement System to create an employee welfare benefit plan that is separate and apart from the Retirement System and under which coverage shall be provided for:

- (1) all law enforcement officers in the State, as defined in G.S. 143-166(m), without regard to whether they are members of this Retirement System; and

- (2) all former law enforcement officers in the State, as defined in G.S. 143-166(m), who had 20 or more years of service as an officer or are

in receipt of a disability retirement allowance from any State-administered retirement system; who shall hereinafter be referred to as participants.

(b) Benefits. The Board of Trustees shall promulgate such rules and regulations as are necessary to establish benefits under the plan, within the availability of funds, to provide:

- (1) a death benefit payable in a lump-sum to the designated beneficiary of a participant; and
- (2) an accident and sickness disability insurance benefit.

(c) Coverage Limits. Benefits payable hereunder shall be payable on account of participants in the plan who have been enrolled as a participant for six or more months or, if an actively employed officer, at any time after enrollment if death or disability resulted from an accident. If the amounts in the fund are not sufficient at any time to enable the Board of Trustees to pay benefits due participants in full, then an equitably graded percentage of such payments shall be made to participants.

(d) Administration. The Board of Trustees shall provide for benefits under the plan by either creating or participating in a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954 as amended. The provisions of the Retirement System pertaining to administration and management of funds under G.S. 143-166 are hereby made applicable to this plan."

Sec. 10. G.S. 143-166 is amended by the addition of a new subsection immediately after subsection (i) designated as "(i1)" to read:

"(i1) Pick Up of Officer Contributions. Anything within this section to the contrary notwithstanding and pursuant to the provisions of Section 414(h)(2) of the Internal Revenue Code of 1954 as amended:

- (1) the State shall pick up and pay the contributions which would be payable by State-employed officers as members under subsection (i) of this section with respect to the service of officers after the effective date of this subsection; and
- (2) a county, city, town or other political subdivision of the State (hereinafter referred to as 'other employer') may elect to enter into an agreement with the Board of Trustees to pick up and pay the contributions which would be payable by officers employed by other employers as members under subsection (i) of this section with respect to the service of their officers after the effective date of this subsection and after the effective date of such agreements; Provided, this provision to pick up and pay the officers' contributions by other employers shall apply only to such other employers who are participating employers in the Local Governmental Employees' Retirement System or who administer some other employers' trust qualified under Sections 401(a), 403(a) or 405(a) of the Internal Revenue Code of 1954 as amended, and then only if such other employers have elected to pick up and pay employee contributions for all their other employees to the other qualified employees' trust.

The officers' contributions picked up by the State or other employer shall be designated for all purposes of the Retirement System as member contributions, except for the determination of tax upon a distribution from the System. These contributions shall be credited to the Regular Contributions Account and accumulated within the account in a member's account which shall be separately established for the purpose of accounting for picked-up contributions.

Members' contributions picked up by the State or other employer shall be payable from the same source of funds used for the payment of compensation of a member. A deduction shall be made from a member's compensation equal to the amount of his contributions picked up by the State or other employer. This deduction, however, shall not reduce his compensation. Picked-up contributions shall be transmitted to the System monthly for the preceding month by means of a warrant drawn by the State or other employer and payable to the Law Enforcement Officers' Retirement System and shall be accompanied by a schedule of the picked-up contributions on such forms as may be prescribed."

Sec. 11. Sections 1 through 9 of this act are effective upon ratification and Section 10 shall become effective on the first day of any calendar month within 60 days after the filing with the Secretary of State of North Carolina of a favorable letter of determination or ruling from the Internal Revenue Service, United States Department of Treasury, that the Law Enforcement Officers' Retirement System is an employees' trust qualified under Section 401(a) of the Internal Revenue Code of 1954 as amended, but only if such determination letter or ruling is filed by June 30, 1985.

In the General Assembly read three times and ratified, this the 8th day of June, 1983.