

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

**SESSION LAW 2011-92
SENATE BILL 244**

AN ACT TO EXTEND THE SURVIVOR'S ALTERNATE BENEFIT TO SURVIVORS OF FIREFIGHTERS AND RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND ARE KILLED IN THE LINE OF DUTY.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-21 is amended by adding two new subdivisions to read:

"(7b) "Firefighter" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a fire department certified by the North Carolina Department of Insurance and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire.

(7c) "Rescue squad worker" means a person (i) who is a full-time paid employee of an employer that participates in the Local Governmental Employees' Retirement System and maintains a rescue squad or emergency medical services team certified by the North Carolina Department of Insurance or the Department of Health and Human Services and (ii) who is actively serving in a position with assigned primary duties and responsibilities for the alleviation of human suffering and assistance to persons who are in difficulty, who are injured, or who become suddenly ill, by providing proper and efficient care or emergency medical services."

SECTION 2. G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that all four of the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., notwithstanding the requirement of obtaining age 50, or
- b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, or the member was a firefighter or a rescue squad worker who had obtained 15 years of service as a firefighter or a rescue squad worker and was killed in the line of duty, in which case cases the retirement allowance shall be computed in accordance with



G.S. 128-27(b21)(1)b., notwithstanding the requirement of obtaining age 50.

- c. Repealed by Session Laws 2010-72, s. 2(b), effective July 1, 2010.
- (2) At the time of the member's death, one and only one beneficiary is eligible to receive a return of his accumulated contributions.
 - (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.
 - (4) The member had not commenced to receive a retirement allowance as provided under this Chapter.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (1) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase.

For the purpose of calculating this benefit, any terminal payouts made after the date of death that meet the definition of compensation shall be credited to the month prior to the month of death. These terminal payouts do not include salary or wages paid for work performed during the month of death."

SECTION 3. This act becomes effective July 1, 2011, and applies to beneficiaries of firefighters and rescue squad workers killed in the line of duty on or after that date.

In the General Assembly read three times and ratified this the 16th day of May, 2011.

s/ Walter H. Dalton
President of the Senate

s/ Dale R. Folwell
Speaker Pro Tempore of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 10:49 a.m. this 26th day of May, 2011