

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1993

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SENATE BILL 949*

Short Title: Reduce Early Retire. Penalty.

(Public)

Sponsors: Senators Warren, Sherron; Hoyle, Ballance, Carpenter, Edwards, Albertson, Forrester, Perdue, Harris, Lee, Smith, Cochran, Simpson, Richardson, Hartsell, Kincaid, Hunt, Speed, Sands, Plexico, Martin of Guilford, Gunter, Walker, and Parnell.

Referred to: Pensions and Retirement.

April 22, 1993

A BILL TO BE ENTITLED
AN ACT TO CHANGE THE METHOD FOR CALCULATING THE PENALTY FOR
EARLY RETIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-3(8) reads as rewritten:

"(8) The provisions of this subsection (8) shall apply to any member whose membership is terminated on or after July 1, 1963 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. 135-5(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a member who so separates from service on or after July 1, 1967, or whose account is active on July 1, 1967, or has not withdrawn his contributions, the

1 aforesated requirement of 15 or more years of creditable
2 service shall be reduced to 12 or more years of creditable
3 service; and further provided that in the case of a member who
4 so separates from service on or after July 1, 1971, or whose
5 account is active on July 1, 1971, the aforesated requirement of
6 12 or more years of creditable service shall be reduced to five
7 or more years of creditable service. ~~Such deferred retirement~~
8 ~~allowance shall be computed in accordance with the provisions of~~
9 ~~G.S. 135-5(b1); provided that such benefits will be computed in~~
10 ~~accordance with (b2) on or after July 1, 1967, but prior to July 1,~~
11 ~~1969; and provided further that such benefits will be computed in~~
12 ~~accordance with (b3) on or after July 1, 1969.~~ Such deferred
13 retirement allowance shall be computed in accordance with the
14 service retirement provisions of this Article pertaining to a
15 member who is not a law enforcement officer or an eligible
16 former law enforcement officer. Notwithstanding the
17 foregoing, any member whose services as a teacher or
18 employee are terminated for any reason other than retirement,
19 who becomes employed by a nonprofit, nonsectarian private
20 school in North Carolina below the college level within one
21 year after such teacher or employee has ceased to be a teacher
22 or employee, may elect to leave his total accumulated
23 contributions in the Teachers' and State Employees' Retirement
24 System during the period he is in the employment of such
25 employer; provided that he files notice thereof in writing with
26 the Board of Trustees of the Retirement System within five
27 years after separation from service as a public school teacher or
28 State employee; such member shall be deemed to have met the
29 requirements of the above provisions of this subdivision upon
30 attainment of age 60 while in such employment provided that
31 he is otherwise vested.

- 32 b. In lieu of the benefits provided in paragraph a of this
33 subdivision (8), any member who separates from service prior
34 to the attainment of the age of 60 years, for any reason other
35 than death or retirement for disability as provided in G.S. 135-
36 5(c), after completing 20 or more years of creditable service,
37 and who leaves his total accumulated contributions in said
38 System, may elect to retire on an early retirement allowance
39 upon attaining the age of 50 years or at any time thereafter;
40 provided that such member may so retire only upon written
41 application to the Board of Trustees setting forth at what time,
42 not less than one day nor more than 90 days subsequent to the
43 execution and filing thereof, he desires to be retired. Such early
44 retirement allowance so elected shall be equal to the deferred

1 retirement allowance otherwise payable at the attainment of the
 2 age of 60 years reduced by the percentage thereof indicated
 3 below.

4	Age at	Percentage
5		Retirement
6		Reduction
7	59	7
8	58	14
9	57	20
10	56	25
11	55	30
12	54	35
13	53	39
14	52	43
15	51	46
16	50	50

17 b1. In lieu of the benefits provided in paragraphs a and b of this
 18 subdivision, any member who is a law-enforcement officer at
 19 the time of separation from service prior to the attainment of the
 20 age of 50 years, for any reason other than death or disability as
 21 provided in this Article, after completing 15 or more years of
 22 creditable service in this capacity immediately prior to
 23 separation from service, and who leaves his total accumulated
 24 contributions in this System may elect to retire on a deferred
 25 early retirement allowance upon attaining the age of 50 years or
 26 at any time thereafter; provided, that the member may
 27 commence retirement only upon written application to the
 28 Board of Trustees setting forth at what time, as of the first day
 29 of a calendar month, not less than one day nor more than 90
 30 days subsequent to the execution and filing thereof, he desires
 31 to commence retirement. The deferred early retirement
 32 allowance shall be computed in accordance with the service
 33 retirement provisions of this Article pertaining to law-
 34 enforcement officers.

35 b2. In lieu of the benefits provided in paragraphs a and b of this
 36 subdivision, any member who is a law-enforcement officer at
 37 the time of separation from service prior to the attainment of the
 38 age of 55 years, for any reason other than death or disability as
 39 provided in this Article, after completing five or more years of
 40 creditable service in this capacity immediately prior to
 41 separation from service, and who leaves his total accumulated
 42 contributions in this System may elect to retire on a deferred
 43 early retirement allowance upon attaining the age of 55 years or
 44 at any time thereafter; provided, that the member may

1 commence retirement only upon written application to the
2 Board of Trustees setting forth at what time, as of the first day
3 of a calendar month not less than one day nor more than 90
4 days subsequent to the execution and filing thereof, he desires
5 to commence retirement. The deferred early retirement
6 allowance shall be computed in accordance with the service
7 retirement provisions of this Article pertaining to law-
8 enforcement officers.

9 b3. Vested deferred retirement allowance of members retiring on or
10 after July 1, 1993. – In lieu of the benefits provided in
11 paragraphs a. and b. of this subdivision, any member who
12 separates from service after completing 20 or more years of
13 creditable service, and who leaves his total accumulated
14 contributions in said System, may elect to retire on a deferred
15 retirement allowance upon attaining the age of 50 years or any
16 time thereafter; provided that such member may so retire only
17 upon written application to the Board of Trustees setting forth
18 at what time, not less than one day nor more than 90 days
19 subsequent to the execution and filing thereof, he desires to be
20 retired. Such deferred retirement allowance shall be computed
21 in accordance with the service retirement provisions of this
22 Article pertaining to a member who is not a law enforcement
23 officer or an eligible former law enforcement officer.

24 c. Should a beneficiary who retired on an early or service
25 retirement allowance be reemployed by an employer
26 participating in the Retirement System on a permanent full-
27 time, part-time, temporary, or on fee-for-service basis, whether
28 contractual or otherwise, the retirement allowance shall be
29 suspended if the beneficiary receives or earns any of the
30 following:

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

1 retirement, if reemployed by the same employer within
2 90 days of the effective date of retirement.

3 The suspension of the retirement allowance shall be
4 effective as of the first day of the month in which the
5 beneficiary meets the conditions set forth in conditions 1
6 or 4 of this paragraph and effective as of the first day of
7 the next succeeding month following the month in which
8 the beneficiary meets the conditions set forth in
9 conditions 2 or 3 of this paragraph. The retirement
10 allowance shall be reinstated the month following
11 termination of reemployment or the month following the
12 month in which the conditions set forth in this paragraph
13 are no longer met. The Board of Trustees may adjust the
14 monetary limits in this paragraph by an amount
15 equivalent to any across-the-board salary increase
16 granted to employees of the State by the General
17 Assembly. Each employer shall report information
18 monthly to the Board of Trustees on forms provided by
19 the Board on each reemployed beneficiary sufficient for
20 the effective enforcement of this paragraph.
21 Notwithstanding the foregoing, any beneficiary may
22 irrevocable elect to recommence membership in the
23 Retirement System immediately upon being restored to
24 service, whereupon the retirement allowance shall cease.

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

30 Upon his subsequent retirement, he shall be paid a
31 retirement allowance determined as follows:

- 32 1. For a member who earns at least three years' membership
33 service after restoration to service, the retirement
34 allowance shall be computed on the basis of his
35 compensation and service before and after the period of
36 prior retirement without restrictions; provided, that if the
37 prior allowance was based on a social security leveling
38 payment option, the allowance shall be adjusted
39 actuarially for the difference between the amount
40 received under the optional payment and what would
41 have been paid if the retirement allowance had been paid
42 without optional modification.
- 43 2. For a member who does not earn three years'
44 membership service after restoration to service, the

1 retirement allowance shall be equal to the sum of the
2 retirement allowance to which he would have been
3 entitled had he not been restored to service, without
4 modification of the election of an optional allowance
5 previously made, and the retirement allowance that
6 results from service earned since being restored to
7 service; provided, that if the prior retirement allowance
8 was based on a social security leveling payment option,
9 the prior allowance shall be adjusted actuarially for the
10 difference between the amount that would have been
11 paid for each month had the payment not been suspended
12 and what would have been paid if the retirement
13 allowance had been paid without optional modification.

- 14 e. Any beneficiary who retired on an early or service retirement
15 allowance as an employee of any State department, agency or
16 institution under the Law Enforcement Officers' Retirement
17 System and becomes employed as an employee by a State
18 department, agency, or institution as an employer participating
19 in the Retirement System shall become subject to the provisions
20 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
21 1989."

22 Sec. 2. G.S. 135-5(b13) reads as rewritten:

23 "(b13) Service Retirement Allowance of Members Retiring on or after July 1,
24 ~~1992-1992, but before July 1, 1993.~~ – Upon retirement from service in accordance with
25 subsection (a) above, on or after July 1, 1992, but before July 1, 1993, a member shall
26 receive the following service retirement allowance:

- 27 (1) A member who is a law enforcement officer or an eligible former law
28 enforcement officer shall receive a service retirement allowance
29 computed as follows:
30 a. If the member's service retirement date occurs on or after his
31 55th birthday, and completion of five years of creditable service
32 as a law enforcement officer, or after the completion of 30 years
33 of creditable service, the allowance shall be equal to one and
34 seventy hundredths percent (1.70%) of his average final
35 compensation, multiplied by the number of years of his
36 creditable service.
37 b. This allowance shall also be governed by the provisions of G.S.
38 135-5(b9)(1)b.
39 (2) A member who is not a law enforcement officer or an eligible former
40 law enforcement officer shall receive a service retirement allowance
41 computed as follows:
42 a. If the member's service retirement date occurs on or after his
43 65th birthday upon the completion of five years of creditable
44 service or after the completion of 30 years of creditable service

1 or on or after his 60th birthday upon the completion of 25 years
2 of creditable service, the allowance shall be equal to one and
3 seventy hundredths percent (1.70%) of his average final
4 compensation, multiplied by the number of years of creditable
5 service.

6 b. This allowance shall also be governed by the provisions of G.S.
7 135-5(b9)(2)b. c. and d."

8 Sec. 3. G.S 135-5 is amended by adding a new subsection to read:

9 "(b14) Service Retirement Allowance of Members Retiring on or after July 1,
10 1993. – Upon retirement from service in accordance with subsection (a) above, on or
11 after July 1, 1993, a member shall receive the following service retirement allowance:

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

15 a. If the member's service retirement date occurs on or after his
16 55th birthday, and completion of five years of creditable service
17 as a law enforcement officer, or after the completion of 30 years
18 of creditable service, the allowance shall be equal to one and
19 seventy hundredths percent (1.70%) of his average final
20 compensation, multiplied by the number of years of his
21 creditable service.

22 b. If the member's service retirement date occurs after his 50th
23 birthday and before his 55th birthday with 15 or more years of
24 creditable service as a law enforcement officer and prior to the
25 completion of 30 years of creditable service, his retirement
26 allowance shall be equal to the greater of:

27 1. The service retirement allowance payable under G.S.
28 135-5(b14)(1)a. reduced by one-third of one percent (1/3
29 of 1%) thereof for each month his retirement date
30 precedes the first day of the month next following the
31 month the member would have completed 30 years of
32 creditable service if he had continued in membership
33 service; or

34 2. The service retirement allowance payable under G.S.
35 135-5(b14)(1)a. reduced by one-third of one percent (1/3
36 of 1%) thereof for each month by which his retirement
37 date precedes the first day of the month coincident with
38 or next following the month the member would have
39 attained his 55th birthday.

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

43 a. If the member's service retirement date occurs on or after his
44 65th birthday upon the completion of five years of creditable

1 service or after the completion of 30 years of creditable service
2 or on or after his 60th birthday upon the completion of 25 years
3 of creditable service, the allowance shall be equal to one and
4 seventy hundredths percent (1.70%) of his average final
5 compensation, multiplied by the number of years of creditable
6 service.

7 b. If the member's service retirement date occurs after his 60th and
8 before his 65th birthday and prior to his completion of 25 years
9 or more of creditable service, his retirement allowance shall be
10 computed as in G.S. 135-5(b14)(2)a. but shall be reduced by
11 one-quarter of one percent (1/4 of 1%) thereof for each month
12 by which his retirement date precedes the first day of the month
13 coincident with or next following his 65th birthday.

14 c. If the member's service retirement date occurs before his 60th
15 birthday and prior to his completion of 30 years of creditable
16 service, his service retirement allowance shall be equal to the
17 greater of:

18 1. The retirement allowance payable under G.S. 135-
19 5(b14)(2)a. reduced by one-third of one percent (1/3 of
20 1%) thereof for each month his retirement date precedes
21 the first day of the month next following the month the
22 member would have completed 30 years of creditable
23 service if he had continued in membership service; or

24 2. The retirement allowance payable under G.S. 135-
25 5(b14)(2)b., reduced by one-third of one percent (1/3 of
26 1%) thereof for each month his retirement date precedes
27 the first day of the month coincident with or next
28 following the month the member would have attained his
29 60th birthday.

30 d. This allowance shall also be governed by the provisions of G.S.
31 135-5(b9)(2)d."

32 Sec. 4. This act becomes effective July 1, 1993.