

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003

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HOUSE DRH70256-RO-1 (2/12)

Short Title: Allow Termination of Option Election. (Public)

Sponsors: Representative Grady.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE PROVISIONS RELATING TO THE ELECTION OF  
OPTIONAL RETIREMENT ALLOWANCES AND TO PERMIT RETIREES  
FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM  
TO TERMINATE THEIR OPTIONAL ELECTION UNDER CERTAIN  
CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-5(g) and (g1) are repealed.

**SECTION 2.** Article 1 of Chapter 135 of the General Statutes is amended by  
adding a new section to read:

**"§ 135-5.05. Election of optional allowance.**

(a) Until the member's first retirement check has been cashed, any member may elect to receive the member's benefits in a retirement allowance payable throughout life, or the member may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth in subdivisions (1) through (6) of this subsection. The member may revoke the election of an option at any time prior to the date the member's first retirement check has been cashed.

(1) Option 1.

a. In the Case of a Member Who Retires Prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of the member's retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

b. In the Case of a Member Who Retires on or After July 1, 1963, but Prior to July 1, 1993. – If the member dies within 10 years

1                   from his retirement date, an amount equal to his accumulated  
2                   contributions at retirement, less 1/120 thereof for each month  
3                   for which he has received a retirement allowance payment, shall  
4                   be paid to his legal representative or to such person as he shall  
5                   nominate by written designation duly acknowledged and filed  
6                   with the Board of Trustees.

7                   (2) Option 2.

8                   Upon the member's death, a reduced retirement allowance shall be  
9                   continued throughout the life of and paid to such person as the member  
10                  shall nominate by written designation duly acknowledged and filed  
11                  with the Board of Trustees at the time of the member's retirement,  
12                  provided that if the person selected is other than the member's spouse  
13                  the reduced retirement allowance payable to the member shall not be  
14                  less than one-half of the retirement allowance without optional  
15                  modification which would otherwise be payable to the member.

16                  (3) Option 3.

17                  Upon the member's death, one-half of the member's reduced retirement  
18                  allowance shall be continued throughout the life of and paid to such  
19                  person as the member shall nominate by written designation duly  
20                  acknowledged and filed with the Board of Trustees at the time of the  
21                  member's retirement.

22                  (4) Option 4.

23                  Until the first payment on account of any benefit becomes normally  
24                  due, any member may elect to convert the member's benefit otherwise  
25                  payable on the member's account after retirement into a retirement  
26                  allowance of equivalent actuarial value of such amount that, with the  
27                  member's benefit under Title II of the Federal Social Security Act, the  
28                  member will receive, so far as possible, approximately the same  
29                  amount per year before and after the earliest age at which the member  
30                  becomes eligible, upon application therefor, to receive a social security  
31                  benefit.

32                  (5) Option 5.

33                  For Members Retiring Prior to July 1, 1993. – The member may elect  
34                  to receive a reduced retirement allowance under the conditions of  
35                  Option 2 or Option 3, as provided in subdivisions (2) and (3) of this  
36                  subsection, with the modification that if both the member and the  
37                  person nominated die within 10 years from the member's retirement  
38                  date, an amount equal to the member's accumulated contributions at  
39                  retirement, less 1/120 thereof for each month for which a retirement  
40                  allowance has been paid, shall be paid to the member's legal  
41                  representatives or to such person as the member shall nominate by  
42                  written designation duly acknowledged and filed with the Board of  
43                  Trustees.

44                  (6) Option 6.

1           A member may elect either Option 2 or Option 3 with the added  
2           provision that in the event the designated beneficiary predeceases the  
3           member, the retirement allowance payable to the member after the  
4           designated beneficiary's death shall be equal to the retirement  
5           allowance which would have been payable had the member not elected  
6           the option.

7           (b) In the event a member has elected Option 2 or Option 3 and the designated  
8           beneficiary dies prior to the date the first retirement check is cashed, the optional  
9           election shall be revoked, and the member may either nominate another person to  
10           receive the benefit upon the member's death or the member may elect to receive the  
11           retirement allowance which would have been payable had the member not elected the  
12           option. In the event a member has elected Option 2 or Option 3 and nominated the  
13           member's spouse to receive a retirement allowance upon the member's death and the  
14           spouse predeceases the member after the first retirement check has been cashed, if the  
15           member remarries, the member may nominate a new spouse to receive the retirement  
16           allowance under the previously elected option, within 90 days of the remarriage. The  
17           new nomination shall be effective on the first day of the month in which it is made and  
18           shall provide for a retirement allowance computed to be the actuarial equivalent of the  
19           retirement allowance in effect immediately prior to the effective date of the new  
20           nomination.

21           (c) Any member having elected Option 2, 3, or 6 and having nominated the  
22           member's spouse to receive a retirement allowance upon the member's death may, after  
23           divorce from the spouse, revoke the nomination and elect a new option, effective on the  
24           first day of the month in which the new option is elected, providing for a retirement  
25           allowance computed to be the actuarial equivalent of the retirement allowance in effect  
26           immediately prior to the effective date of the new option.

27           (d) A member who has elected Option 2, 3, or 6, upon retirement, may elect to  
28           terminate the option at any time after the first retirement check has been cashed by  
29           filing a duly acknowledged form with the Board of Trustees. A member who chooses to  
30           terminate an option in accordance with this provision shall not be allowed to rescind the  
31           termination or to make any other optional election after the form has been filed. The  
32           termination of the option shall be effective on the first day of the month following the  
33           month in which the termination is filed with the Board of Trustees. The retirement  
34           allowance payable to the member after the termination of the option shall be equal to  
35           the retirement allowance which would have been payable had the member not elected  
36           the option.

37           (e) In the event of the death of a retired member while in receipt of a retirement  
38           allowance under the provisions of this Article, there shall be paid to such person or  
39           persons as the retiree shall have nominated by written designation duly acknowledged  
40           and filed with the Board of Trustees, if such person or persons are living at the time of  
41           the retiree's death, otherwise to the retiree's legal representative, a death benefit equal to  
42           the excess, if any, of the accumulated contributions of the retiree at the date of  
43           retirement over the total of the retirement allowances paid prior to the death of the  
44           retiree.

1        (f)    In the event that a retirement allowance becomes payable to the designated  
2 beneficiary of a retired member who has elected an option pursuant to this section and  
3 the retirement allowance to the beneficiary shall terminate upon the death of the  
4 beneficiary before the total of the retirement allowances paid to the retiree and the  
5 designated beneficiary combined equals the amount of the accumulated contributions of  
6 the retiree at the date of retirement, the excess, if any, of such accumulated  
7 contributions over the total of the retirement allowances paid to the retiree and the  
8 beneficiary combined shall be paid in a lump sum to such person or persons as the  
9 retiree shall have nominated by written designation duly acknowledged and filed with  
10 the Board of Trustees, if such person or persons are living at the time such payment falls  
11 due, otherwise to the retiree's legal representative."

12                    **SECTION 3.** This act becomes effective July 1, 2003.