

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 763*

Short Title: Fire and Rescue Workers' Retirement. (Public)

Sponsors: Representatives Culpepper; Faison, LaRoque, Martin, Moore, Pierce, and Wainwright.

Referred to: Pensions and Retirement.

March 17, 2005

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE BENEFITS FOR CAREER FIREFIGHTERS AND
CAREER RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12E of Chapter 143 of the General Statutes reads as
rewritten:

"Article 12E.

"Retirement Benefits for Local Governmental Law-Enforcement ~~Officers~~Officers and
Career Firefighters and Rescue Squad Workers.

**"§ 143-166.50. Retirement benefits for local governmental law-enforcement
~~officers-officers and career firefighters and rescue squad workers.~~**

(a) Definitions. – The following words and phrases as used in this Article, unless
a different meaning is plainly required by the context, have the following meaning:

(1) "Beneficiary" means any person in receipt of a retirement allowance or
other benefit from a Retirement System.

(1a) "Career 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.

(1b) "Career 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

1 assigned primary duties and responsibilities for the alleviation of
2 human suffering and assistance to persons who are in difficulty, who
3 are injured, or who become suddenly ill, by providing proper and
4 efficient care or emergency medical services.

5 (2) "Employer" means a county, city, town or other political subdivision
6 of the State.

7 (3) "Law-enforcement officer" means a full-time paid employee of an
8 employer, who possesses the power of arrest, who has taken the law
9 enforcement oath administered under the authority of the State as
10 prescribed by G.S. 11-11, and who is certified as a law enforcement
11 officer under the provisions of Chapter 17C of the General Statutes or
12 certified as a deputy sheriff under the provisions of Chapter 17E of the
13 General Statutes. "Law enforcement officer" also means the sheriff of
14 the county. The number of paid personnel employed as law
15 enforcement officers by a law enforcement agency may not exceed the
16 number of law enforcement positions approved by the applicable local
17 governing board.

18 (4) "Law-Enforcement Officers' Retirement System" means the system
19 provided for under Article 12 of Chapter 143 of the General Statutes,
20 as it existed prior to January 1, 1986.

21 (5) "Local Governmental Employees' Retirement System" means the
22 Local Governmental Employees' Retirement System of North Carolina
23 provided for under Article 3 of Chapter 128 of the General Statutes.

24 (6) "Member" means an ~~officer~~officer, firefighter, or rescue squad worker
25 included in the membership of a retirement system, including former
26 ~~officers~~officers, firefighters, or rescue squad workers no longer
27 employed who also elected to leave their accumulated contributions on
28 deposit with a Retirement System.

29 (7) "Officer" means a "law-enforcement officer."

30 (8) "State" means the State of North Carolina.

31 (b) Basic Retirement System. – On and after January 1, 1986, law-enforcement
32 officers employed by an employer shall be members of the Local Government
33 Employees' Retirement System, and beneficiaries who were last employed as officers
34 by an employer, or who are surviving beneficiaries of officers last employed by an
35 employer, are beneficiaries of the Local Governmental Employees' Retirement System
36 and paid in benefit amounts then in effect. All members of the Law-Enforcement
37 Officers' Retirement System last employed and paid by an employer are members of the
38 Local Retirement System.

39 (c) Rights. – Notwithstanding any other provisions of law, any accrued or
40 inchoate rights of a member of the Law-Enforcement Officers' Retirement System as of
41 his transfer to the Local Governmental Employees' Retirement System on January 1,
42 1986, including the rights to a vested deferred retirement allowance and to commence
43 retirement at certain ages with required years of service as a law-enforcement officer,
44 may in no way be diminished; provided, however, in no event may a member

1 commence retirement and continue membership service with the same Retirement
2 System after January 1, 1986.

3 (d) Court Cost Receipts. – Of the sum derived from the cost of court provided for
4 in G.S. 7A-304(a)(3), the amount designated for this Article, except for the amount
5 designated for the provisions of G.S. 143-166.50(e), shall be paid over to the pension
6 accumulation fund of the Local Governmental Employees' Retirement System and shall
7 offset, to the extent of these receipts, the employers' normal contribution rate required in
8 G.S. 128-30(d)(2) as it pertains to law enforcement officers.

9 (e) Supplemental Retirement Income Plan for Local Governmental
10 Law-Enforcement Officers. – As of January 1, 1986, all law-enforcement officers
11 employed by a local government employer, are participating members of the
12 Supplemental Retirement Income Plan as provided by Article 5 of Chapter 135 of the
13 General Statutes. In addition to the contributions transferred from the Law-Enforcement
14 Officers' Retirement System, participants may make voluntary contributions to the
15 Supplemental Retirement Income Plan to be credited to the designated individual
16 accounts of participants; provided, in no instance shall the total contributions by a
17 participant exceed ten percent (10%) of a participant's compensation within any
18 calendar year. From July 1, 1987, until July 1, 1988, local government employers of law
19 enforcement officers shall contribute an amount equal to at least two percent (2%) of
20 participating local officers' monthly compensation to the Supplemental Retirement
21 Income Plan to be credited to the designated individual accounts of participating local
22 officers; and on and after July 1, 1988, local government employers of law enforcement
23 officers shall contribute an amount equal to five percent (5%) of participating local
24 officers' monthly compensation to the Supplemental Retirement Income Plan to be
25 credited to the designated individual accounts of participating local officers.

26 Additional contributions shall also be made to the individual accounts of all
27 participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the
28 sum of one dollar and twenty-five cents (\$1.25) for each cost of court collected under
29 G.S. 7A-304.

30 (e1) Rights of Participants under the Uniformed Services Employment and
31 Reemployment Rights Act. – A participant whose employment is interrupted by reason
32 of service in the Uniformed Services, as that term is defined in section 4303(16) of the
33 Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353,
34 hereafter referred to as "USERRA", shall be entitled to all rights and benefits that the
35 participant would have been entitled to under this section had the participant's
36 employment not been interrupted, provided that the participant returns to service as a
37 law enforcement officer while the participant's reemployment rights are protected under
38 the provisions of USERRA

39 (f) Supplemental Retirement Income Plan for Full-Time Local Career
40 Firefighters and Rescue Squad Workers. – As of January 1, 2006, all career firefighters
41 and career rescue squad workers employed by a local government employer are
42 participating members of the Supplemental Retirement Income Plan as provided by
43 Article 5 of Chapter 135 of the General Statutes. Participants may make voluntary
44 contributions to the Supplemental Retirement Income Plan to be credited to the

1 designated individual accounts of participants; however, in no instance shall the total
2 contributions by a participant exceed ten percent (10%) of a participant's compensation
3 within any calendar year. On and after January 1, 2006, local government employers of
4 career firefighters or career rescue squad workers shall contribute an amount equal to
5 five percent (5%) of participating firefighters' or rescue squad workers' monthly
6 compensation to the Supplemental Retirement Income Plan to be credited to the
7 designated individual accounts of participating firefighters or rescue squad workers."

8 **SECTION 2.** G.S. 128-21 is amended by adding two new subdivisions to
9 read:

10 "(7b) "Career firefighter" means a person (i) who is a full-time paid
11 employee of an employer that participates in the Local Governmental
12 Employees' Retirement System and maintains a fire department
13 certified by the North Carolina Department of Insurance, and (ii) who
14 is actively serving in a position with assigned primary duties and
15 responsibilities for the prevention, detection, and suppression of fire.

16 (7c) "Career rescue squad worker" means a person (i) who is a full-time
17 paid employee of an employer that participates in the Local
18 Governmental Employees' Retirement System and maintains a rescue
19 squad or emergency medical services team certified by the North
20 Carolina Department of Insurance or the Department of Health and
21 Human Services, and (ii) who is actively serving in a position with
22 assigned primary duties and responsibilities for the alleviation of
23 human suffering and assistance to persons who are in difficulty, who
24 are injured, or who become suddenly ill, by providing proper and
25 efficient care or emergency medical services."

26 **SECTION 3.** G.S. 128-24(5) reads as rewritten:

27 "(5) The provisions of this subdivision (5) shall apply to any member
28 whose membership is terminated on or after July 1, 1965, and who
29 becomes entitled to benefits hereunder in accordance with the
30 provisions hereof.

31 a. Notwithstanding any other provision of this Chapter, any
32 member who separates from service prior to the attainment of
33 the age of 60 years for any reason other than death or retirement
34 for disability as provided in G.S. 128-27(c), after completing 15
35 or more years of creditable service, and who leaves his total
36 accumulated contributions in said System shall have the right to
37 retire on a deferred retirement allowance upon attaining the age
38 of 60 years; provided that such member may retire only upon
39 written application to the Board of Trustees setting forth at what
40 time, not less than one day nor more than 90 days subsequent to
41 the execution and filing thereof, he desires to be retired; and
42 further provided that in the case of a member who so separates
43 from service on or after July 1, 1967, the aforesated
44 requirement of 15 or more years of creditable service shall be

1 reduced to 12 or more years of creditable service; and further
 2 provided that in the case of a member who so separates from
 3 service on or after July 1, 1971, or whose account is active on
 4 July 1, 1971, the aforesated requirement of 12 or more years of
 5 creditable service shall be reduced to five or more years of
 6 creditable service. Such deferred retirement allowance shall be
 7 computed in accordance with the service retirement provisions
 8 of this Article pertaining to a member who is not a law
 9 enforcement officer or eligible former law enforcement officer.

10 b. In lieu of the benefits provided in paragraph a of this
 11 subdivision, any member who separates from service prior to
 12 the attainment of the age of 60 years, for any reason other than
 13 death or retirement for disability as provided in G.S. 128-27(c),
 14 after completing 20 or more years of creditable service, and
 15 who leaves his total accumulated contributions in said System
 16 may elect to retire on an early retirement allowance upon
 17 attaining the age of 50 years or at any time thereafter; provided
 18 that such member may so retire only upon written application to
 19 the Board of Trustees setting forth at what time, not less than
 20 one day nor more than 90 days subsequent to the execution and
 21 filing thereof, he desires to be retired. Such early retirement
 22 allowance so elected shall be equal to the deferred retirement
 23 allowance otherwise payable at the attainment of the age of 60
 24 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

38
 39 b1. In lieu of the benefits provided in paragraphs a and b of this
 40 subdivision, any member who is a law enforcement ~~officer~~
 41 officer, career firefighter, or career rescue squad worker at the
 42 time of separation from service prior to the attainment of the
 43 age of 50 years, for any reason other than death or disability as
 44 provided in this Article, after completing 15 or more years of

1 creditable service in this capacity immediately prior to
2 separation from service, and who leaves his total accumulated
3 contributions in this System, may elect to retire on a deferred
4 early retirement allowance upon attaining the age of 50 years or
5 at any time thereafter; provided, that the member may
6 commence retirement only upon written application to the
7 Board of Trustees setting forth at what time, as of the first day
8 of a calendar month, not less than one day nor more than 90
9 days subsequent to the execution and filing thereof, he desires
10 to commence retirement. The deferred early retirement
11 allowance shall be computed in accordance with the service
12 retirement provisions of this Article pertaining to law
13 enforcement ~~officers~~officers, career firefighter, or career rescue
14 squad workers.

15 b2. In lieu of the benefits provided in paragraphs a and b of this
16 subdivision, any member who is a law enforcement officer at
17 the time of separation from service prior to the attainment of the
18 age of 55 years, for any reason other than death or disability as
19 provided in this Article, after completing five or more years of
20 creditable service in this capacity immediately prior to
21 separation from service, and who leaves his total accumulated
22 contributions in this System may elect to retire on a deferred
23 service retirement allowance upon attaining the age of 55 years
24 or at any time thereafter; provided, that the member may
25 commence retirement only upon written application to the
26 Board of Trustees setting forth at what time, as of the first day
27 of a calendar month not less than one day nor more than 90
28 days subsequent to the execution and filing thereof, he desires
29 to commence retirement. The deferred service retirement
30 allowance shall be computed in accordance with the service
31 retirement provisions of this Article pertaining to law
32 enforcement ~~officers~~officers, career firefighters, or career
33 rescue squad workers.

34 b3. Deferred retirement allowance of members retiring on or after
35 July 1, 1995. – In lieu of the benefits provided in paragraphs a.
36 and b. of this subdivision, any member who separates from
37 service prior to attainment of age 60 years, after completing 20
38 or more years of creditable service, and who leaves his total
39 accumulated contributions in said System, may elect to retire on
40 a deferred retirement allowance upon attaining the age of 50
41 years or any time thereafter; provided that such member may so
42 retire only upon written application to the Board of Trustees
43 setting forth at what time, not less than one day nor more than
44 90 days subsequent to the execution and filing thereof, he

1 desires to be retired. Such deferred retirement allowance shall
2 be computed in accordance with the service retirement
3 provisions of this Article pertaining to a member who is not a
4 law enforcement ~~officer~~ or officer, an eligible former law
5 enforcement ~~officer~~, officer, a career firefighter, an eligible
6 former career firefighter, a career rescue squad worker, or an
7 eligible former career rescue squad worker.

8 c. Should a beneficiary who retired on an early or service
9 retirement allowance be reemployed, or otherwise engaged to
10 perform services, by an employer participating in the
11 Retirement System on a part-time, temporary, interim, or on
12 fee-for-service basis, whether contractual or otherwise, and if
13 such beneficiary earns an amount during the 12-month period
14 immediately following the effective date of retirement or in any
15 calendar year which exceeds fifty percent (50%) of the reported
16 compensation, excluding terminal payments, during the 12
17 months of service preceding the effective date of retirement, or
18 twenty thousand dollars (\$20,000), whichever is greater, as
19 hereinafter indexed, then the retirement allowance shall be
20 suspended as of the first day of the month following the month
21 in which the reemployment earnings exceed the amount above,
22 for the balance of the calendar year. The retirement allowance
23 of the beneficiary shall be reinstated as of January 1 of each
24 year following suspension. The amount that may be earned
25 before suspension shall be increased on January 1 of each year
26 by the ratio of the Consumer Price Index to the Index one year
27 earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

28 d. Should a beneficiary who retired on an early or service
29 retirement allowance be restored to service as an employee,
30 then the retirement allowance shall cease as of the first day of
31 the month following the month in which the beneficiary is
32 restored to service and the beneficiary shall become a member
33 of the Retirement System and shall contribute thereafter as
34 allowed by law at the uniform contribution payable by all
35 members.

36 Upon his subsequent retirement, he shall be paid a
37 retirement allowance determined as follows:

38 1. For a member who earns at least three years' membership
39 service after restoration to service, the retirement
40 allowance shall be computed on the basis of his
41 compensation and service before and after the period of
42 prior retirement without restriction; provided, that if the
43 prior allowance was based on a social security leveling
44 payment option, the allowance shall be adjusted

1 actuarially for the difference between the amount
 2 received under the optional payment and what would
 3 have been paid if the retirement allowance had been paid
 4 without optional modification.

- 5 2. For a member who does not earn three years'
 6 membership service after restoration to service, the
 7 retirement allowance shall be equal to the sum of the
 8 retirement allowance to which he would have been
 9 entitled had he not been restored to service, without
 10 modification of the election of an optional allowance
 11 previously made, and the retirement allowance that
 12 results from service earned since being restored to
 13 service; provided, that if the prior retirement allowance
 14 was based on a social security leveling payment option,
 15 the prior allowance shall be adjusted actuarially for the
 16 difference between the amount that would have been
 17 paid for each month had the payment not been suspended
 18 and what would have been paid if the retirement
 19 allowance had been paid without optional modification."

20 **SECTION 4.** G.S. 128-27(a) reads as rewritten:

21 "(a) Service Retirement Benefits. –

- 22 (1) Any member may retire upon written application to the Board of
 23 Trustees setting forth at what time, as of the first day of a calendar
 24 month, not less than one day nor more than 90 days subsequent to the
 25 execution and filing thereof, he desires to be retired: Provided, that the
 26 said member at the time so specified for his retirement shall have
 27 attained the age of 60 years and have at least five years of creditable
 28 service or shall have completed 30 years of creditable service, or if a
 29 ~~fireman, he~~ career firefighter or career rescue squad worker, the
 30 member shall have attained the age of 55 years and have at least five
 31 years of creditable service.
 32 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
 33 (3) Repealed by Session Laws 1971, c. 325, s. 12.
 34 (4) Any member who was in service October 8, 1981, who had attained 60
 35 years of age, may retire upon written application to the Board of
 36 Trustees setting forth at what time, as of the first day of a calendar
 37 month, not less than one day nor more than 90 days subsequent to the
 38 execution and filing thereof, he desires to be retired.
 39 (5) Any member who is a law enforcement officer, career firefighter, or
 40 career rescue squad worker and who attains age 50 and completes 15
 41 or more years of creditable service in this capacity or who attains age
 42 55 and completes five or more years of creditable service in this
 43 capacity, may retire upon written application to the Board of Trustees
 44 setting forth at what time, as of the first day of a calendar month, not

1 less than one day nor more than 90 days subsequent to the execution
2 and filing thereof, ~~he~~ the member desires to be retired; provided, also,
3 any member who has met the conditions required by this subdivision
4 but does not retire, and later becomes an employee other than as a law
5 enforcement officer, career firefighter, or career rescue squad worker
6 continues to have the right to commence retirement."

7 **SECTION 5.** G.S. 128-27(b21) reads as rewritten:

8 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003-
9 2003, but Before January 1, 2006. – Upon retirement from service in accordance with
10 subsection (a) or (a1) above, on or after July 1, 2003, but before January 1, 2006, a
11 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 eighty-five hundredths percent (1.85%) 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 on or after his
23 50th birthday and before his 55th birthday with 15 or more
24 years of creditable service as a law enforcement officer and
25 prior to the completion of 30 years of creditable service, his
26 retirement allowance shall be equal to the greater of:

27 1. The service retirement allowance payable under
28 G.S. 128-27(b21)(1)a. reduced by one-third of one
29 percent (1/3 of 1%) thereof for each month by which his
30 retirement date precedes the first day of the month
31 coincident with or next following the month the member
32 would have attained his 55th birthday;

33 2. The service retirement allowance as computed under
34 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
35 times the difference between 30 years and his creditable
36 service at retirement.

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

40 a. If the member's service retirement date occurs on or after his
41 65th birthday upon the completion of five years of creditable
42 service or after the completion of 30 years of creditable service
43 or on or after his 60th birthday upon the completion of 25 years
44 of creditable service, the allowance shall be equal to one and

1 eighty-five hundredths percent (1.85%) of average final
2 compensation, multiplied by the number of years of creditable
3 service.

4 b. If the member's service retirement date occurs after his 60th
5 birthday and before his 65th birthday and prior to his
6 completion of 25 years or more of creditable service, his
7 retirement allowance shall be computed as in
8 G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of
9 one percent (1/4 of 1%) thereof for each month by which his
10 retirement date precedes the first day of the month coincident
11 with or next following his 65th birthday.

12 c. If the member's early service retirement date occurs on or after
13 his 50th birthday and before his 60th birthday and after
14 completion of 20 years of creditable service but prior to the
15 completion of 30 years of creditable service, his early service
16 retirement allowance shall be equal to the greater of:

17 1. The service retirement allowance as computed under
18 G.S. 128-27(b21)(2)a. but reduced by the sum of
19 five-twelfths of one percent (5/12 of 1%) thereof for
20 each month by which his retirement date precedes the
21 first day of the month coincident with or next following
22 the month the member would have attained his 60th
23 birthday, plus one-quarter of one percent (1/4 of 1%)
24 thereof for each month by which his 60th birthday
25 precedes the first day of the month coincident with or
26 next following his 65th birthday; or

27 2. The service retirement allowance as computed under
28 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
29 times the difference between 30 years and his creditable
30 service at retirement; or

31 3. If the member's creditable service commenced prior to
32 July 1, 1995, the service retirement allowance equal to
33 the actuarial equivalent of the allowance payable at the
34 age of 60 years as computed in G.S. 128-27(b21)(2)b.

35 d. Notwithstanding the foregoing provisions, any member whose
36 creditable service commenced prior to July 1, 1965, shall not
37 receive less than the benefit provided by G.S. 128-27(b)."

38 **SECTION 6.** G.S. 128-27 is amended by adding a new subsection to read:

39 "(b22) Service Retirement Allowance of Member Retiring on or After January 1,
40 2006. – Upon retirement from service in accordance with subsection (a) or (a1) above,
41 on or after January 1, 2006, a member shall receive the following service retirement
42 allowance:

43 (1) A member who is a law enforcement officer, an eligible former law
44 enforcement officer, a career firefighter, an eligible former career

1 firefighter, a career rescue squad worker, or an eligible former career
2 rescue squad worker shall receive a service retirement allowance
3 computed as follows:

4 a. If the member's service retirement date occurs on or after his
5 55th birthday and completion of five years of creditable service
6 as a law enforcement officer, career firefighter, or a career
7 rescue squad worker, or after the completion of 30 years of
8 creditable service, the allowance shall be equal to one and
9 eighty-five hundredths percent (1.85%) of his average final
10 compensation, multiplied by the number of years of his
11 creditable service.

12 b. If the member's service retirement date occurs on or after his
13 50th birthday and before his 55th birthday with 15 or more
14 years of creditable service as a law enforcement officer, career
15 firefighter, or career rescue squad worker and prior to the
16 completion of 30 years of creditable service, his retirement
17 allowance shall be equal to the greater of:

18 1. The service retirement allowance payable under
19 G.S. 128-27(b22)(1)a. reduced by one-third of one
20 percent (1/3 of 1%) thereof for each month by which his
21 retirement date precedes the first day of the month
22 coincident with or next following the month the member
23 would have attained his 55th birthday;

24 2. The service retirement allowance as computed under
25 G.S. 128-27(b22)(1)a. reduced by five percent (5%)
26 times the difference between 30 years and his creditable
27 service at retirement.

28 (2) A member who is not a law enforcement officer, an eligible former
29 law enforcement officer, a career firefighter, an eligible former career
30 firefighter, a career rescue squad worker, or an eligible former career
31 rescue squad worker shall receive a service retirement allowance
32 computed as follows:

33 a. If the member's service retirement date occurs on or after his
34 65th birthday upon the completion of five years of creditable
35 service or after the completion of 30 years of creditable service
36 or on or after his 60th birthday upon the completion of 25 years
37 of creditable service, the allowance shall be equal to one and
38 eighty-five hundredths percent (1.85%) of average final
39 compensation, multiplied by the number of years of creditable
40 service.

41 b. If the member's service retirement date occurs after his 60th
42 birthday and before his 65th birthday and prior to his
43 completion of 25 years or more of creditable service, his
44 retirement allowance shall be computed as in

1 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
 2 one percent (1/4 of 1%) thereof for each month by which his
 3 retirement date precedes the first day of the month coincident
 4 with or next following his 65th birthday.

5 c. If the member's early service retirement date occurs on or after
 6 his 50th birthday and before his 60th birthday and after
 7 completion of 20 years of creditable service but prior to the
 8 completion of 30 years of creditable service, his early service
 9 retirement allowance shall be equal to the greater of:

10 1. The service retirement allowance as computed under
 11 G.S. 128-27(b22)(2)a. but reduced by the sum of
 12 five-twelfths of one percent (5/12 of 1%) thereof for
 13 each month by which his retirement date precedes the
 14 first day of the month coincident with or next following
 15 the month the member would have attained his 60th
 16 birthday, plus one-quarter of one percent (1/4 of 1%)
 17 thereof for each month by which his 60th birthday
 18 precedes the first day of the month coincident with or
 19 next following his 65th birthday; or

20 2. The service retirement allowance as computed under
 21 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
 22 times the difference between 30 years and his creditable
 23 service at retirement; or

24 3. If the member's creditable service commenced prior to
 25 July 1, 1995, the service retirement allowance equal to
 26 the actuarial equivalent of the allowance payable at the
 27 age of 60 years as computed in G.S. 128-27(b22)(2)b.

28 d. Notwithstanding the foregoing provisions, any member whose
 29 creditable service commenced prior to July 1, 1965, shall not
 30 receive less than the benefit provided by G.S. 128-27(b)."

31 **SECTION 7.** G.S. 128-27(m) reads as rewritten:

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

38 (1) a. The member had attained such age and/or creditable service to
 39 be eligible to commence retirement with an early or service
 40 retirement allowance, or

41 b. The member had obtained 20 years of creditable service in
 42 which case the retirement allowance shall be computed in
 43 accordance with G.S. 128-27(b21)(1)b. ~~or~~
 44 G.S. 128-27(b21)(2)e., G.S. 128-27(b22)(1)b. ~~or~~

- 1 G.S. 128-27(b22)(2)c., notwithstanding the requirement of
2 obtaining age 50, or
3 c. The member had not commenced to receive a retirement
4 allowance as provided under this Chapter.
5 (2) The member had designated as the principal beneficiary to receive a
6 return of his accumulated contributions one and only one person who
7 is living at the time of his death.
8 (3) The member had not instructed the Board of Trustees in writing that he
9 did not wish the provisions of this subsection apply.

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

18 **SECTION 8.** This act becomes effective January 1, 2006, but shall not affect
19 the rights of a person who is a vested member of the Local Governmental Employees'
20 Retirement System on that date to any disability benefits for which that person is
21 otherwise eligible on that date.