

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 288
Pensions and Retirement Committee Substitute Adopted 7/9/92

Short Title: Modify Retire. Benefit Restrict.

(Public)

Sponsors:

Referred to:

March 27, 1991

A BILL TO BE ENTITLED

1 AN ACT TO MODIFY THE BENEFIT RESTRICTIONS FOR REEMPLOYED
2 RETIREES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
3 SYSTEM AND IN THE TEACHERS' AND STATE EMPLOYEES'
4 RETIREMENT SYSTEM AND IN THE CONSOLIDATED JUDICIAL
5 RETIREMENT SYSTEM.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 128-24(5) reads as rewritten:

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

13 a. Notwithstanding any other provision of this Chapter, any
14 member who separates from service prior to the attainment of
15 the age of 60 years for any reason other than death or retirement
16 for disability as provided in G.S. 128-27(c), after completing 15
17 or more years of creditable service, and who leaves his total
18 accumulated contributions in said System shall have the right to
19 retire on a deferred retirement allowance upon attaining the age
20 of 60 years; provided that such member may retire only upon
21 written application to the Board of Trustees setting forth at what
22 time, not less than one day nor more than 90 days subsequent to
23 the execution and filing thereof, he desires to be retired; and

1 further provided that in the case of a member who so separates
 2 from service on or after July 1, 1967, the aforesated
 3 requirement of 15 or more years of creditable service shall be
 4 reduced to 12 or more years of creditable service; and further
 5 provided that in the case of a member who so separates from
 6 service on or after July 1, 1971, or whose account is active on
 7 July 1, 1971, the aforesated requirement of 12 or more years of
 8 creditable service shall be reduced to five or more years of
 9 creditable service. Such deferred retirement allowance shall be
 10 computed in accordance with the provisions of G.S. 128-27(b1),
 11 provided that such benefits will be computed in accordance
 12 with subsection (b2) on or after July 1, 1967, but prior to July 1,
 13 1969; and provided further that such benefits will be computed
 14 in accordance with subsection (b3) on or after July 1, 1969.

15 b. In lieu of the benefits provided in paragraph a of this
 16 subdivision, any member who separates from service prior to
 17 the attainment of the age of 60 years, for any reason other than
 18 death or retirement for disability as provided in G.S. 128-27(c),
 19 after completing 20 or more years of creditable service, and
 20 who leaves his total accumulated contributions in said System
 21 may elect to retire on an early retirement allowance upon
 22 attaining the age of 50 years or at any time thereafter; provided
 23 that such member may so retire only upon written application to
 24 the Board of Trustees setting forth at what time, not less than
 25 one day nor more than 90 days subsequent to the execution and
 26 filing thereof, he desires to be retired. Such early retirement
 27 allowance so elected shall be equal to the deferred retirement
 28 allowance otherwise payable at the attainment of the age of 60
 29 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

42 b1. In lieu of the benefits provided in paragraphs a and b of this
 43 subdivision, any member who is a law enforcement officer at
 44 the time of separation from service prior to the attainment of the

1 age of 50 years, for any reason other than death or disability as
2 provided in this Article, after completing 15 or more years of
3 creditable service in this capacity immediately prior to
4 separation from service, and who leaves his total accumulated
5 contributions in this System, may elect to retire on a deferred
6 early retirement allowance upon attaining the age of 50 years or
7 at any time thereafter; provided, that the member may
8 commence retirement only upon written application to the
9 Board of Trustees setting forth at what time, as of the first day
10 of a calendar month, not less than one day nor more than 90
11 days subsequent to the execution and filing thereof, he desires
12 to commence retirement. The deferred early retirement
13 allowance shall be computed in accordance with the service
14 retirement provisions of this Article pertaining to law
15 enforcement officers.

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

34 c. Should a beneficiary who retired on an early or service
35 retirement allowance be ~~reemployed~~ reemployed, or otherwise
36 engaged to perform services, by an employer participating in
37 the Retirement System on a ~~permanent full-time,~~ part-time,
38 temporary, interim, or on a fee-for-service basis, whether
39 contractual or otherwise, ~~the retirement allowance shall be~~
40 ~~suspended if the beneficiary receives or earns any of the following:~~

41 ~~1. Salary or fees or both in excess of one thousand five~~
42 ~~hundred dollars (\$1,500) per month;~~

- 1 2.- Salary or fees or both in excess of thirteen thousand five
2 hundred dollars (\$13,500) during any consecutive 12
3 calendar months;
4 3.- Salary or fees or both during any consecutive 12
5 calendar months, which is greater than fifty percent
6 (50%) of the reported compensation during the 12
7 months of service preceding the effective date of
8 retirement; or
9 4.- Salary or fees or both during any month, which when
10 added to the retirement allowance at retirement exceeds
11 the monthly compensation earned immediately prior to
12 retirement, if reemployed by the same employer within
13 90 days of the effective date of retirement.

14 The suspension of the retirement allowance shall be effective as
15 of the first day of the month in which the beneficiary meets the
16 conditions set forth in conditions 1 or 4 of this paragraph and
17 effective as of the first day of the next succeeding month
18 following the month in which the beneficiary meets the
19 conditions set forth in conditions 2 or 3 of this paragraph. The
20 retirement allowance shall be reinstated the month following
21 termination of reemployment or the month following the month
22 in which the conditions set forth in this paragraph are no longer
23 met. The Board of Trustees may adjust the monetary limits in
24 this paragraph by an amount equivalent to any across the board
25 salary increase granted to employees of the State by the General
26 Assembly. Each employer shall report information monthly to
27 the Board of Trustees on forms provided by the Board on each
28 reemployed beneficiary sufficient for the effective enforcement
29 of this paragraph. Notwithstanding the foregoing, any
30 beneficiary may irrevocably elect to recommence membership
31 in the Retirement System immediately upon being restored to
32 service, whereupon the retirement allowance shall cease, and if
33 such beneficiary earns an amount in any month which exceeds
34 one-twelfth (1/12) of forty percent (40%) of average final
35 compensation, as hereinafter indexed, then the retirement
36 allowance shall be suspended as of the month in which the
37 reemployment earnings exceed the amount above. The
38 retirement allowance of the beneficiary shall be reinstated as of
39 any month in which the reemployment earnings do not exceed
40 one-twelfth (1/12) of forty percent (40%) of average final
41 compensation. The amount that may be earned before
42 suspension shall be increased on January 1 of each year by the
43 ratio of the Consumer Price Index to the Index one year earlier,
44 calculated to the nearest tenth of a percent (1/10 of 1%).

1 d. ~~Should a A-beneficiary who retired on an early or service~~
2 ~~retirement allowance whose retirement allowance is suspended in~~
3 ~~accordance with the provisions of paragraph e and who is be~~
4 ~~restored to service as an employee, then the retirement~~
5 ~~allowance shall cease as of the first day of the month in which~~
6 ~~the beneficiary is restored to service and the beneficiary shall~~
7 become a member of the Retirement System and shall
8 contribute thereafter as allowed by law at the uniform
9 contribution payable by all members.

10 Upon his subsequent retirement, he shall be paid a
11 retirement allowance determined as follows:

- 12 1. For a member who earns at least three years' membership
13 service after restoration to service, the retirement
14 allowance shall be computed on the basis of his
15 compensation and service before and after the period of
16 prior retirement without restriction; provided, that if the
17 prior allowance was based on a social security leveling
18 payment option, the allowance shall be adjusted
19 actuarially for the difference between the amount
20 received under the optional payment and what would
21 have been paid if the retirement allowance had been paid
22 without optional modification.
- 23 2. For a member who does not earn three years'
24 membership service after restoration to service, the
25 retirement allowance shall be equal to the sum of the
26 retirement allowance to which he would have been
27 entitled had he not been restored to service, without
28 modification of the election of an optional allowance
29 previously made, and the retirement allowance that
30 results from service earned since being restored to
31 service; provided, that if the prior retirement allowance
32 was based on a social security leveling payment option,
33 the prior allowance shall be adjusted actuarially for the
34 difference between the amount that would have been
35 paid for each month had the payment not been suspended
36 and what would have been paid if the retirement
37 allowance had been paid without optional modification."

38 Sec. 2. G.S. 135-1(10) reads as rewritten:

39 "(10) 'Employee' shall mean all full-time employees, agents or officers
40 of the State of North Carolina or any of its departments, bureaus
41 and institutions other than educational, whether such employees are
42 elected, appointed or employed: Provided that the term 'employee'
43 shall not include any person who is a member of the ~~Uniform~~
44 Consolidated Judicial Retirement System, any member of the

1 General Assembly or any part-time or temporary employee.
2 Notwithstanding any other provision of law, 'employee' shall
3 include all employees of the General Assembly except participants
4 in the Legislative Intern ~~Program~~ ~~Program, and pages-~~ ~~pages, and~~
5 reemployed beneficiaries in receipt of a monthly retirement
6 allowance under this Chapter. In all cases of doubt, the Board of
7 Trustees shall determine whether any person is an employee as
8 defined in this Chapter. 'Employee' shall also mean every full-time
9 civilian employee of the army national guard and air national guard
10 of this State who is employed pursuant to section 709 of Title 32 of
11 the United States Code and paid from federal appropriated funds,
12 but held by the federal authorities not to be a federal employee:
13 Provided, however, that the authority or agency paying the salaries
14 of such employees shall deduct or cause to be deducted from each
15 employee's salary the employee's contribution in accordance with
16 applicable provisions of G.S. 135-8 and remit the same, either
17 directly or indirectly, to the Retirement System; coverage of
18 employees described in this sentence shall commence upon the first
19 day of the calendar year or fiscal year, whichever is earlier, next
20 following the date of execution of an agreement between the
21 Secretary of Defense of the United States and the Adjutant General
22 of the State acting for the Governor in behalf of the State, but no
23 credit shall be allowed pursuant to this sentence for any service
24 previously rendered in the above-described capacity as a civilian
25 employee of the national guard: Provided, further, that the Adjutant
26 General, in his discretion, may terminate the Retirement System
27 coverage of the above-described national guard employees if a
28 federal retirement system is established for such employees and the
29 Adjutant General elects to secure coverage of such employees
30 under such federal retirement system. Any full-time civilian
31 employee of the national guard described above who is now or
32 hereafter may become a member of the Retirement System may
33 secure Retirement System credit for such service as a national
34 guard civilian employee for the period preceding the time when
35 such employees became eligible for Retirement System coverage
36 by paying to the Retirement System an amount equal to that which
37 would have constituted employee contributions if he had been a
38 member during the years of ineligibility, plus interest. Employees
39 of State agencies, departments, institutions, boards, and
40 commissions who are employed in permanent job positions on a
41 recurring basis and who work 30 or more hours per week for nine
42 or more months per calendar year are covered by the provisions of
43 this subdivision."

44 Sec. 3. G.S. 135-3(8) reads as rewritten:

1 "(8) The provisions of this subsection (8) shall apply to any member
2 whose membership is terminated on or after July 1, 1963 and who
3 becomes entitled to benefits hereunder in accordance with the
4 provisions hereof.

- 5 a. Notwithstanding any other provision of this Chapter, any
6 member who separates from service prior to the attainment of
7 the age of 60 years for any reason other than death or retirement
8 for disability as provided in G.S. 135-5(c), after completing 15
9 or more years of creditable service, and who leaves his total
10 accumulated contributions in said System shall have the right to
11 retire on a deferred retirement allowance upon attaining the age
12 of 60 years; provided that such member may retire only upon
13 written application to the Board of Trustees setting forth at what
14 time, not less than one day nor more than 90 days subsequent to
15 the execution and filing thereof, he desires to be retired; and
16 further provided that in the case of a member who so separates
17 from service on or after July 1, 1967 or whose account is active
18 on July 1, 1967, or has not withdrawn his contributions, the
19 aforestated requirement of 15 or more years of creditable
20 service shall be reduced to 12 or more years of creditable
21 service; and further provided that in the case of a member who
22 so separates from service on or after July 1, 1971, or whose
23 account is active on July 1, 1971, the aforestated requirement of
24 12 or more years of creditable service shall be reduced to five
25 or more years of creditable service. Such deferred retirement
26 allowance shall be computed in accordance with the provisions
27 of G.S. 135-5(b1); provided that such benefits will be computed
28 in accordance with (b2) on or after July 1, 1967, but prior to
29 July 1, 1969; and provided further that such benefits will be
30 computed in accordance with (b3) on or after July 1, 1969.
31 Notwithstanding the foregoing, any member whose services as
32 a teacher or employee are terminated for any reason other than
33 retirement, who becomes employed by a nonprofit, nonsectarian
34 private school in North Carolina below the college level within
35 one year after such teacher or employee has ceased to be a
36 teacher or employee, may elect to leave his total accumulated
37 contributions in the Teachers' and State Employees' Retirement
38 System during the period he is in the employment of such
39 employer; provided that he files notice thereof in writing with
40 the Board of Trustees of the Retirement System within five
41 years after separation from service as a public school teacher or
42 State employee; such member shall be deemed to have met the
43 requirements of the above provisions of this subdivision upon

1 attainment of age 60 while in such employment provided that
 2 he is otherwise vested.

- 3 b. In lieu of the benefits provided in paragraph a of this
 4 subdivision (8), any member who separates from service prior
 5 to the attainment of the age of 60 years, for any reason other
 6 than death or retirement for disability as provided in G.S. 135-
 7 5(c), after completing 20 or more years of creditable service,
 8 and who leaves his total accumulated contributions in said
 9 System, may elect to retire on an early retirement allowance
 10 upon attaining the age of 50 years or at any time thereafter;
 11 provided that such member may so retire only upon written
 12 application to the Board of Trustees setting forth at what time,
 13 not less than one day nor more than 90 days subsequent to the
 14 execution and filing thereof, he desires to be retired. Such early
 15 retirement allowance so elected shall be equal to the deferred
 16 retirement allowance otherwise payable at the attainment of the
 17 age of 60 years reduced by the percentage thereof indicated
 18 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

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31 b1. In lieu of the benefits provided in paragraphs a and b of this
 32 subdivision, any member who is a law-enforcement officer at
 33 the time of separation from service prior to the attainment of the
 34 age of 50 years, for any reason other than death or disability as
 35 provided in this Article, after completing 15 or more years of
 36 creditable service in this capacity immediately prior to
 37 separation from service, and who leaves his total accumulated
 38 contributions in this System may elect to retire on a deferred
 39 early retirement allowance upon attaining the age of 50 years or
 40 at any time thereafter; provided, that the member may
 41 commence retirement only upon written application to the
 42 Board of Trustees setting forth at what time, as of the first day
 43 of a calendar month, not less than one day nor more than 90
 44 days subsequent to the execution and filing thereof, he desires

1 to commence retirement. The deferred early retirement
2 allowance shall be computed in accordance with the service
3 retirement provisions of this Article pertaining to law-
4 enforcement officers.

5 b2. In lieu of the benefits provided in paragraphs a and b of this
6 subdivision, any member who is a law-enforcement officer at
7 the time of separation from service prior to the attainment of the
8 age of 55 years, for any reason other than death or disability as
9 provided in this Article, after completing five or more years of
10 creditable service in this capacity immediately prior to
11 separation from service, and who leaves his total accumulated
12 contributions in this System may elect to retire on a deferred
13 early retirement allowance upon attaining the age of 55 years or
14 at any time thereafter; provided, that the member may
15 commence retirement only upon written application to the
16 Board of Trustees setting forth at what time, as of the first day
17 of a calendar month not less than one day nor more than 90
18 days subsequent to the execution and filing thereof, he desires
19 to commence retirement. The deferred early retirement
20 allowance shall be computed in accordance with the service
21 retirement provisions of this Article pertaining to law-
22 enforcement officers.

23 c. Should a beneficiary who retired on an early or service
24 retirement allowance under this Chapter be ~~reemployed~~
25 reemployed, or otherwise engaged to perform services, by an
26 employer participating in the Retirement System other than
27 temporary employees of the General Assembly on a permanent
28 full-time, part-time, temporary, interim or on a fee-for-service
29 basis, whether contractual or otherwise, the retirement allowance
30 shall be suspended if the beneficiary receives or earns any of the
31 following:

- 32 1. ~~Salary or fees or both in excess of one thousand five~~
33 ~~hundred dollars (\$1,500) per month;~~
- 34 2. ~~Salary or fees or both in excess of thirteen thousand five~~
35 ~~hundred (\$13,500) during any consecutive 12 calendar~~
36 ~~months;~~
- 37 3. ~~Salary or fees or both during any consecutive 12~~
38 ~~calendar months, which is greater than fifty percent~~
39 ~~(50%) of the reported compensation during the 12~~
40 ~~months of service preceding the effective date of~~
41 ~~retirement; or~~
- 42 4. ~~Salary or fees or both during any month, which when~~
43 ~~added to the retirement allowance at retirement exceeds~~
44 ~~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 effective
4 as of the first day of the month in which the beneficiary meets
5 the conditions set forth in conditions 1 or 4 of this paragraph
6 and effective as of the first day of the next succeeding month
7 following the month in which the beneficiary meets the
8 conditions set forth in conditions 2 or 3 of this paragraph. The
9 retirement allowance shall be reinstated the month following
10 termination of reemployment or the month following the month
11 in which the conditions set forth in this paragraph are no longer
12 met. The Board of Trustees may adjust the monetary limits in
13 this paragraph by an amount equivalent to any across the board
14 salary increase granted to employees of the State by the General
15 Assembly. Each employer shall report information monthly to
16 the Board of Trustees on forms provided by the Board on each
17 reemployed beneficiary sufficient for the effective enforcement
18 of this paragraph. Notwithstanding the foregoing, any
19 beneficiary may irrevocable elect to recommence membership
20 in the Retirement System immediately upon being restored to
21 service, whereupon the retirement allowance shall cease, and if
22 such beneficiary earns an amount in any month which exceeds
23 one-twelfth (1/12) of forty percent (40%) of average final
24 compensation, as hereinafter indexed, then the retirement
25 allowance shall be suspended as of the month in which the
26 reemployment earnings exceed the amount above. The
27 retirement allowance of the beneficiary shall be reinstated as of
28 any month in which the reemployment earnings do not exceed
29 one-twelfth (1/12) of forty percent (40%) of average final
30 compensation. The amount that may be earned before
31 suspension shall be increased on January 1 of each year by the
32 ratio of the Consumer Price Index to the Index one year earlier,
33 calculated to the nearest tenth of a percent (1/10 of 1%).

- 34 d. Should a A-beneficiary who retired on an early or service
35 retirement allowance under this Chapter whose retirement
36 allowance is suspended in accordance with the provisions of
37 paragraph e and who is be restored to service as an employee or
38 teacher, then the retirement allowance shall cease as of the first
39 day of the month in which the beneficiary is restored to service
40 and the beneficiary shall become a member of the Retirement
41 System and shall contribute thereafter as allowed by law at the
42 uniform contribution payable by all members.

43 Upon his subsequent retirement, he shall be paid a
44 retirement allowance determined as follows:

- 1 1. For a member who earns at least three years' membership
2 service after restoration to service, the retirement
3 allowance shall be computed on the basis of his
4 compensation and service before and after the period of
5 prior retirement without restrictions; provided, that if the
6 prior allowance was based on a social security leveling
7 payment option, the allowance shall be adjusted
8 actuarially for the difference between the amount
9 received under the optional payment and what would
10 have been paid if the retirement allowance had been paid
11 without optional modification.
 - 12 2. For a member who does not earn three years'
13 membership service after restoration to service, the
14 retirement allowance shall be equal to the sum of the
15 retirement allowance to which he would have been
16 entitled had he not been restored to service, without
17 modification of the election of an optional allowance
18 previously made, and the retirement allowance that
19 results from service earned since being restored to
20 service; provided, that if the prior retirement allowance
21 was based on a social security leveling payment option,
22 the prior allowance shall be adjusted actuarially for the
23 difference between the amount that would have been
24 paid for each month had the payment not been suspended
25 and what would have been paid if the retirement
26 allowance had been paid without optional modification.
 - 27 e. Any beneficiary who retired on an early or service retirement
28 allowance as an employee of any State department, agency or
29 institution under the Law Enforcement Officers' Retirement
30 System and becomes employed as an employee by a State
31 department, agency, or institution as an employer participating
32 in the Retirement System shall become subject to the provisions
33 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
34 1989."
- 35 Sec. 4. This act becomes effective January 1, 1993.