

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 292

Short Title: Reduce Early Retire. Penalty.

(Public)

Sponsors: Senators Hoyle, Warren, and Forrester.

Referred to: Pensions and Retirement/Insurance/State Personnel

March 2, 1995

A BILL TO BE ENTITLED

**AN ACT TO CHANGE THE METHOD FOR CALCULATING THE REDUCTION
FOR EARLY RETIREMENT IN THE LOCAL GOVERNMENTAL EMPLOYEES'
RETIREMENT SYSTEM.**

The General Assembly of North Carolina enacts:

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

"(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, 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. 128-27(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

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further provided that in the case of a member who so separates from service on or after July 1, 1967, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated requirement of 12 or more years of creditable service shall be reduced to five or more years of creditable service. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or eligible former law enforcement officer.

b. In lieu of the benefits provided in paragraph a of this subdivision, 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. 128-27(c), after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so 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. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below. Age at

Percentage	Reduction
Retirement	
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50b1. In lieu

of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity

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

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

26 b3. Vested deferred retirement allowance of members retiring on or
27 after July 1, 1995. – In lieu of the benefits provided in paragraphs
28 a. and b. of this subdivision, any member who separates from
29 service prior to attainment of age 60 years, after completing 20 or
30 more years of creditable service, and who leaves his total
31 accumulated contributions in said System, may elect to retire on
32 a deferred retirement allowance upon attaining the age of 50
33 years or any time thereafter; provided that such member may so
34 retire only upon written application to the Board of Trustees
35 setting forth at what time, not less than one day nor more than 90
36 days subsequent to the execution and filing thereof, he desires to
37 be retired. Such deferred retirement allowance shall be
38 computed in accordance with the service retirement provisions of
39 this Article pertaining to a member who is not a law enforcement
40 officer or an eligible former law enforcement officer.

41 c. Should a beneficiary who retired on an early or service
42 retirement allowance be reemployed, or otherwise engaged to
43 perform services, by an employer participating in the Retirement

1 System on a part-time, temporary, interim, or on fee-for-service
2 basis, whether contractual or otherwise, and if such beneficiary
3 earns an amount in any calendar year which exceeds fifty percent
4 (50%) of the reported compensation, excluding terminal
5 payments, during the 12 months of service preceding the
6 effective date of retirement, or twenty thousand dollars
7 (\$20,000), whichever is greater, as hereinafter indexed, then the
8 retirement allowance shall be suspended as of the first day of the
9 month following the month in which the reemployment earnings
10 exceed the amount above, for the balance of the calendar year.
11 The retirement allowance of the beneficiary shall be reinstated as
12 of January 1 of each year following suspension. The amount that
13 may be earned before suspension shall be increased on January 1
14 of each year by the ratio of the Consumer Price Index to the
15 Index one year earlier, calculated to the nearest tenth of a percent
16 (1/10 of 1%).

- 17 d. Should a beneficiary who retired on an early or service
18 retirement allowance be restored to service as an employee, then
19 the retirement allowance shall cease as of the first day of the
20 month following the month in which the beneficiary is restored
21 to service and the beneficiary shall become a member of the
22 Retirement System and shall contribute thereafter as allowed by
23 law at the uniform contribution payable by all members.

24 Upon his subsequent retirement, he shall be paid a retirement
25 allowance determined as follows:

- 26 1. For a member who earns at least three years' membership
27 service after restoration to service, the retirement
28 allowance shall be computed on the basis of his
29 compensation and service before and after the period of
30 prior retirement without restriction; provided, that if the
31 prior allowance was based on a social security leveling
32 payment option, the allowance shall be adjusted
33 actuarially for the difference between the amount received
34 under the optional payment and what would have been
35 paid if the retirement allowance had been paid without
36 optional modification.
- 37 2. For a member who does not earn three years' membership
38 service after restoration to service, the retirement
39 allowance shall be equal to the sum of the retirement
40 allowance to which he would have been entitled had he
41 not been restored to service, without modification of the
42 election of an optional allowance previously made, and
43 the retirement allowance that results from service earned

1 since being restored to service; provided, that if the prior
2 retirement allowance was based on a social security
3 leveling payment option, the prior allowance shall be
4 adjusted actuarially for the difference between the amount
5 that would have been paid for each month had the
6 payment not been suspended and what would have been
7 paid if the retirement allowance had been paid without
8 optional modification."

9 Sec. 2. G.S. 128-27(b14) reads as rewritten:

10 "(b14) Service Retirement Allowance of Members Retiring on or after July 1,
11 1994-1994, but before July 1, 1995. – Upon retirement from service in accordance with
12 subsection (a) or (a1) above, on or after July 1, 1994, but before July 1, 1995, a member
13 shall receive the following service retirement allowance:

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

17 a. If the member's service retirement date occurs on or after his
18 55th birthday, and completion of five years of creditable service
19 as a law enforcement officer, or after the completion of 30 years
20 of creditable service, the allowance shall be equal to one and
21 seventy-one hundredths percent (1.71%) of his average final
22 compensation, multiplied by the number of years of his
23 creditable service.

24 b. This allowance shall also be governed by the provisions of G.S.
25 128-27(b8)(2).

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

29 a. If the member's service retirement date occurs on or after his
30 65th birthday upon the completion of five years of creditable
31 service or after the completion of 30 years of creditable service
32 or on or after his 60th birthday upon the completion of 25 years
33 of creditable service, the allowance shall be equal to one and
34 seventy-one hundredths percent (1.71%) of his average final
35 compensation, multiplied by the number of years of creditable
36 service.

37 b. This allowance shall also be governed by the provisions of G.S.
38 128-27(b7)(2a), (2b), and (3)."

39 Sec. 3. G.S. 128-27 is amended by adding a new subsection to read:

40 "(b15) Service Retirement Allowance of Members Retiring on or after July 1,
41 1995. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
42 or after July 1, 1995, a member shall receive the following service retirement allowance:

- 1 (1) A member who is a law enforcement officer or an eligible former law
2 enforcement officer 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, or after the completion of 30 years
7 of creditable service, the allowance shall be equal to one and
8 seventy-one hundredths percent (1.71%) of his average final
9 compensation, multiplied by the number of years of his
10 creditable service.
- 11 b. If the member's service retirement date occurs on or after his
12 50th birthday and before his 55th birthday with 15 or more years
13 of creditable service as a law enforcement officer and prior to the
14 completion of 30 years of creditable service, his retirement
15 allowance shall be equal to the greater of:
- 16 1. The service retirement allowance payable under G.S. 128-
17 27(b15)(1)a. reduced by one-third of one percent (1/3 of
18 1%) thereof for each month by which his retirement date
19 precedes the first day of the month coincident with or next
20 following the month the member would have attained his
21 55th birthday; or
- 22 2. The service retirement allowance as computed under G.S.
23 128-27(b15)(1)a. reduced by five percent (5%) times the
24 difference between 30 years and his creditable service at
25 retirement.
- 26 (2) A member who is not a law enforcement officer or an eligible former
27 law enforcement officer shall receive a service retirement allowance
28 computed as follows:
- 29 a. If the member's service retirement date occurs on or after his
30 65th birthday upon the completion of five years of creditable
31 service or after the completion of 30 years of creditable service
32 or on or after his 60th birthday upon the completion of 25 years
33 of creditable service, the allowance shall be equal to one and
34 seventy-one hundredths percent (1.71%) of his average final
35 compensation, multiplied by the number of years of creditable
36 service.
- 37 b. If the member's service retirement date occurs after his 60th and
38 before his 65th birthday and prior to his completion of 25 years
39 or more of creditable service, his retirement allowance shall be
40 computed as in G.S. 127-28(b15)(2)a. but shall be reduced by
41 one-quarter of one percent (1/4 of 1%) thereof for each month by
42 which his retirement date precedes the first day of the month
43 coincident with or next following his 65th birthday.

- 1 c. If the member's early service retirement date occurs on or after
2 his 50th birthday and before his 60th birthday and after
3 completion of 20 years of creditable service but prior to the
4 completion of 30 years of creditable service, his early service
5 retirement allowance shall be equal to the greater of:
- 6 1. The service retirement allowance as computed under G.S.
7 128-27(b15)(2)a. but reduced by the sum of five-twelfths
8 of one percent (5/12 of 1%) thereof for each month by
9 which his retirement date precedes the first day of the
10 month coincident with or next following the month the
11 member would have attained his 60th birthday, plus one-
12 quarter of one percent (1/4 of 1%) thereof for each month
13 by which his 60th birthday precedes the first day of the
14 month coincident with or next following his 65th birthday;
15 or
16 2. The service retirement allowance as computed under G.S.
17 128-27(b15)(2)a. reduced by five percent (5%) times the
18 difference between 30 years and his creditable service at
19 retirement; or
20 3. If the member's creditable service commenced prior to
21 July 1, 1995, the service retirement allowance provided by
22 G.S. 128-27(b14)(2)c.
- 23 d. Notwithstanding the foregoing provisions, any member whose
24 creditable service commenced prior to July 1, 1963, shall not
25 receive less than the benefit provided by G.S. 127-28(b)."

26 Sec. 4. G.S 128-27(m) reads as rewritten:

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

- 33 ~~(1) The member had attained such age and/or creditable service to be~~
34 ~~eligible to commence retirement with an early or service retirement~~
35 ~~allowance or had attained 20 years of creditable service.~~
- 36 (1) a. The member had attained such age and/or creditable service to be
37 eligible to commence retirement with an early or service retirement
38 allowance, or
39 b. The member had obtained 20 years of creditable service in which
40 case the retirement allowance shall be computed in accordance
41 with G.S. 135-5(b15)(1)b. or G.S. 135-5(b15)(2)c.,
42 notwithstanding the requirement of obtaining age 50.

1 (2) The member had designated as the principal beneficiary to receive a
2 return of his accumulated contributions one and only one person who is
3 living at the time of his death.

4 (3) The member had not instructed the Board of Trustees in writing that he
5 did not wish the provisions of this subsection apply.

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

13 Sec. 5. This act becomes effective July 1, 1995.