

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 1624**

Short Title: Increase Retirees' Contributory Death Benefit. (Public)

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Sponsors: Representatives Bell, G. Wilson (Primary Sponsors); Wainwright, McLawhorn, and Hackney.

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Referred to: Pensions and Retirement, if favorable, Appropriations.

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May 24, 2004

A BILL TO BE ENTITLED

1  
2 AN ACT TO INCREASE THE CONTRIBUTORY DEATH BENEFIT FOR RETIRED  
3 MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT  
4 SYSTEM, THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT  
5 SYSTEM, THE LEGISLATIVE RETIREMENT SYSTEM, AND THE  
6 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-5(l) reads as rewritten:

9 "(l) Death Benefit Plan. – There is hereby created a Group Life Insurance Plan  
10 (hereinafter called the "Plan") which is established as an employee welfare benefit plan  
11 that is separate and apart from the Retirement System and under which the members of  
12 the Retirement System shall participate and be eligible for group life insurance benefits.  
13 Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees  
14 under the Group Life Insurance Plan, of the death, in service, of a member who had  
15 completed at least one full calendar year of membership in the Retirement System, there  
16 shall be paid to such person as he shall have nominated by written designation duly  
17 acknowledged and filed with the Board of Trustees, if such person is living at the time  
18 of the member's death, otherwise to the member's legal representatives, a death benefit.  
19 Such death benefit shall be equal to the greater of:

- 20 (1) The compensation on which contributions were made by the member  
21 during the calendar year preceding the year in which his death occurs,  
22 or  
23 (2) The greatest compensation on which contributions were made by the  
24 member during a 12-month period of service within the 24-month  
25 period of service ending on the last day of the month preceding the  
26 month in which his last day of actual service occurs;  
27 (3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049,  
28 s. 2.

1 subject to a minimum of twenty-five thousand dollars (\$25,000) and to a maximum of  
2 fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate  
3 from the payment of the member's accumulated contributions under the System on his  
4 death pursuant to the provisions of subsection (f) of this section. For the purpose of the  
5 Plan, a member shall be deemed to be in service at the date of his death if his death  
6 occurs within 180 days from the last day of his actual service.

7 The death benefit provided in this subsection (l) shall not be payable,  
8 notwithstanding the member's compliance with all the conditions set forth in the  
9 preceding paragraph, if his death occurs

- 10 (1) After December 31, 1968 and after he has attained age 70; or
- 11 (2) After December 31, 1969 and after he has attained age 69; or
- 12 (3) After December 31, 1970 and after he has attained age 68; or
- 13 (4) After December 31, 1971 and after he has attained age 67; or
- 14 (5) After December 31, 1972 and after he has attained age 66; or
- 15 (6) After December 31, 1973 and after he has attained age 65; or
- 16 (7) After December 31, 1978, but before January 1, 1987, and after he has  
17 attained age 70.

18 Notwithstanding the above provisions, the death benefit shall be payable on account  
19 of the death of any member who died or dies on or after January 1, 1974, but before  
20 January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or  
21 she had not yet attained age 66, was at the time of death completing the work year for  
22 those individuals under specific contract, or during the fiscal year for those individuals  
23 not under specific contract, in which he or she attained 65, and otherwise met all  
24 conditions for payment of the death benefit.

25 Notwithstanding the above provisions, the Board of Trustees may and is specifically  
26 authorized to provide the death benefit according to the terms and conditions otherwise  
27 appearing in this Plan in the form of group life insurance, either (i) by purchasing a  
28 contract or contracts of group life insurance with any life insurance company or  
29 companies licensed and authorized to transact business in this State for the purpose of  
30 insuring the lives of members in service, or (ii) by establishing a separate trust fund  
31 qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended,  
32 for such purpose. To that end the Board of Trustees is authorized, empowered and  
33 directed to investigate the desirability of utilizing group life insurance by either of the  
34 foregoing methods for the purpose of providing the death benefit. If a separate trust  
35 fund is established, it shall be operated in accordance with rules and regulations adopted  
36 by the Board of Trustees and all investment earnings on the trust fund shall be credited  
37 to such fund.

38 In administration of the death benefit the following shall apply:

- 39 (1) For the purpose of determining eligibility only, in this subsection  
40 "calendar year" shall mean any period of 12 consecutive months or, if  
41 less, the period covered by an annual contract of employment. For all  
42 other purposes in this subsection "calendar year" shall mean the 12  
43 months beginning January 1 and ending December 31.
- 44 (2) Last day of actual service shall be:

- 1           a.     When employment has been terminated, the last day the  
2           member actually worked.
- 3           b.     When employment has not been terminated, the date on which  
4           an absent member's sick and annual leave expire, unless he is  
5           on approved leave of absence and is in service under the  
6           provisions of G.S. 135-4(h).

7           (3)    For a period when a member is on leave of absence, his status with  
8           respect to the death benefit will be determined by the provisions of  
9           G.S. 135-4(h).

10          (4)    A member on leave of absence from his position as a teacher or State  
11          employee for the purpose of serving as a member or officer of the  
12          General Assembly shall be deemed to be in service during sessions of  
13          the General Assembly and thereby covered by the provisions of the  
14          death benefit. The amount of the death benefit for such member shall  
15          be the equivalent of the salary to which the member would have been  
16          entitled as a teacher or State employee during the 12-month period  
17          immediately prior to the month in which death occurred, not to be less  
18          than twenty-five thousand dollars (\$25,000) nor to exceed fifty  
19          thousand dollars (\$50,000).

20          The provisions of the Retirement System pertaining to Administration, G.S. 135-6,  
21          and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

22          A member who is a beneficiary of the Disability Income Plan provided for in Article  
23          6 of this Chapter shall be eligible for group life insurance benefits as provided in this  
24          subsection, notwithstanding that the member is no longer an employee or teacher or that  
25          the member's death occurs after the eligibility period after active service. The basis of  
26          the death benefit payable hereunder shall be the higher of the death benefit computed as  
27          above or a death benefit based on compensation used in computing the benefit payable  
28          under G.S. 135-105 and G.S. 135-106, as may be adjusted for percentage post-disability  
29          increases, all subject to the maximum dollar limitation as provided above. A member in  
30          receipt of benefits from the Disability Income Plan under the provisions of  
31          G.S. 135-112 whose right to a benefit accrued under the former Disability Salary  
32          Continuation Plan shall not be covered under the provisions of this paragraph.

33          Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
34          subsection, of the death of a retired member of the Retirement System on or after July 1,  
35          1988, but before January 1, 1999, there shall be paid a death benefit to the surviving  
36          spouse of the deceased retired member or to the deceased retired member's legal  
37          representative if not survived by a spouse; provided the retired member has elected,  
38          when first eligible, to make, and has continuously made, in advance of his death  
39          required contributions as determined by the Board of Trustees on a fully contributory  
40          basis, through retirement allowance deductions or other methods adopted by the Board  
41          of Trustees, to a group death benefit trust fund administered by the Board of Trustees  
42          separate and apart from the Retirement System's Annuity Savings Fund and Pension  
43          Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of  
44          five thousand dollars (\$5,000) upon the completion of twenty-four months of

1 contributions required under this subsection. Should death occur before the completion  
2 of twenty-four months of contributions required under this subsection, the deceased  
3 retired member's surviving spouse or legal representative if not survived by a spouse  
4 shall be paid the sum of the retired member's contributions required by this subsection  
5 plus interest to be determined by the Board of Trustees.

6 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
7 subsection, of the death of a retired member of the Retirement System on or after  
8 January 1, 1999, but before July 1, 2004, there shall be paid a death benefit to the  
9 surviving spouse of the deceased retired member or to the deceased retired member's  
10 legal representative if not survived by a spouse; provided the retired member has  
11 elected, when first eligible, to make, and has continuously made, in advance of his death  
12 required contributions as determined by the Board of Trustees on a fully contributory  
13 basis, through retirement allowance deductions or other methods adopted by the Board  
14 of Trustees, to a group death benefit trust fund administered by the Board of Trustees  
15 separate and apart from the Retirement System's Annuity Savings Fund and Pension  
16 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount of  
17 six thousand dollars (\$6,000) upon the completion of 24 months of contributions  
18 required under this subsection. Should death occur before the completion of 24 months  
19 of contributions required under this subsection, the deceased retired member's surviving  
20 spouse or legal representative if not survived by a spouse shall be paid the sum of the  
21 retired member's contributions required by this subsection plus interest to be determined  
22 by the Board of Trustees.

23 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
24 subsection, of the death of a retired member of the Retirement System on or after July 1,  
25 2004, there shall be paid a death benefit to the surviving spouse of the deceased retired  
26 member or to the deceased retired member's legal representative if not survived by a  
27 spouse; provided the retired member has elected, when first eligible, to make, and has  
28 continuously made, in advance of his death required contributions as determined by the  
29 Board of Trustees on a fully contributory basis, through retirement allowance  
30 deductions or other methods adopted by the Board of Trustees, to a group death benefit  
31 trust fund administered by the Board of Trustees separate and apart from the Retirement  
32 System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit  
33 shall be a lump-sum payment in the amount of nine thousand dollars (\$9,000) upon the  
34 completion of 24 months of contributions required under this subsection. Should death  
35 occur before the completion of 24 months of contributions required under this  
36 subsection, the deceased retired member's surviving spouse or legal representative if not  
37 survived by a spouse shall be paid the sum of the retired member's contributions  
38 required by this subsection plus interest to be determined by the Board of Trustees."

39 **SECTION 2.** G.S. 128-27(13) reads as rewritten:

40 "(13) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to  
41 the Board of Trustees in its capacity under this subsection, of the death of a retired  
42 member of the Retirement System on or after January 1, 1999, but before July 1, 2004,  
43 there shall be paid a death benefit to the surviving spouse of the deceased retired  
44 member or to the deceased retired member's legal representative if not survived by a

1 spouse; provided the retired member has elected, when first eligible, to make, and has  
2 continuously made, in advance of his death required contributions as determined by the  
3 Board of Trustees on a fully contributory basis through retirement allowance deductions  
4 or other methods adopted by the Board of Trustees, to a group death benefit trust fund  
5 administered by the Board of Trustees separate and apart from the Retirement System's  
6 Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a  
7 lump sum payment in the amount of six thousand dollars (\$6,000) upon the completion  
8 of 24 months of contributions required under this subsection. Should death occur before  
9 the completion of 24 months of contributions required under this subsection, the  
10 deceased retired member's surviving spouse or legal representative if not survived by a  
11 spouse shall be paid the sum of the retired member's contributions required by this  
12 subsection plus interest to be determined by the Board of Trustees."

13 **SECTION 3.** G.S. 128-27 is amended by adding a new subsection to read:

14 "(14) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to  
15 the Board of Trustees in its capacity under this subsection, of the death of a retired  
16 member of the Retirement System on or after July 1, 2004, there shall be paid a death  
17 benefit to the surviving spouse of the deceased retired member or to the deceased retired  
18 member's legal representative if not survived by a spouse; provided the retired member  
19 has elected, when first eligible, to make, and has continuously made, in advance of his  
20 death required contributions as determined by the Board of Trustees on a fully  
21 contributory basis through retirement allowance deductions or other methods adopted  
22 by the Board of Trustees, to a group death benefit trust fund administered by the Board  
23 of Trustees separate and apart from the Retirement System's Annuity Savings Fund and  
24 Pension Accumulation Fund. This death benefit shall be a lump-sum payment in the  
25 amount of nine thousand dollars (\$9,000) upon the completion of 24 months of  
26 contributions required under this subsection. Should death occur before the completion  
27 of 24 months of contributions required under this subsection, the deceased retired  
28 member's surviving spouse or legal representative if not survived by a spouse shall be  
29 paid the sum of the retired member's contributions required by this subsection plus  
30 interest to be determined by the Board of Trustees."

31 **SECTION 4.** G.S. 120-4.27 reads as rewritten:

32 **"§ 120-4.27. Death benefit.**

33 The designated beneficiary of a member who dies while in service after completing  
34 one year of creditable service shall receive a lump-sum payment of an amount equal to  
35 the deceased member's highest annual salary, to a maximum of fifteen thousand dollars  
36 (\$15,000). For purposes of this death benefit "in service" means currently serving as a  
37 member of the North Carolina General Assembly.

38 The death benefit provided by this section shall be designated a group life insurance  
39 benefit payable under an employee welfare benefit plan that is separate and apart from  
40 the Retirement System but under which the members of the Retirement System shall  
41 participate and be eligible for group life insurance benefits. The Board of Trustees is  
42 authorized to provide the death benefit in the form of group life insurance either by  
43 purchasing a contract or contracts of group life insurance with any life insurance  
44 company or companies licensed and authorized to transact business in the State of North

1 Carolina for the purpose of insuring the lives of qualified members in service, or by  
2 establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of  
3 the Internal Revenue Code of 1954, as amended.

4 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired  
5 member of the Retirement System or Retirement Fund on or after July 1, 1988, but  
6 before January 1, 1999, there shall be paid a death benefit to the surviving spouse of a  
7 deceased retired member, or to the deceased retired member's legal representative if not  
8 survived by a spouse; provided the retired member has elected, when first eligible, to  
9 make, and has continuously made, in advance of his death required contributions as  
10 determined by the Retirement System on a fully contributory basis, through retirement  
11 allowance deductions or other methods adopted by the Retirement System, to a group  
12 death benefit trust fund administered by the Board of Trustees separate and apart from  
13 the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This  
14 death benefit shall be a lump-sum payment in the amount of five thousand dollars  
15 (\$5,000) upon the completion of twenty-four months of contributions required under  
16 this subsection. Should death occur before the completion of twenty-four months of  
17 contributions required under this subsection, the deceased retired member's surviving  
18 spouse or legal representative if not survived by a spouse shall be paid the sum of the  
19 retired member's contributions required by this subsection plus interest to be determined  
20 by the Board of Trustees.

21 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired  
22 member of the Retirement System or Retirement Fund on or after January 1, 1999, but  
23 before July 1, 2004, there shall be paid a death benefit to the surviving spouse of a  
24 deceased retired member, or to the deceased retired member's legal representative if not  
25 survived by a spouse; provided the retired member has elected, when first eligible, to  
26 make, and has continuously made, in advance of his death required contributions as  
27 determined by the Retirement System on a fully contributory basis, through retirement  
28 allowance deductions or other methods adopted by the Retirement System, to a group  
29 death benefit trust fund administered by the Board of Trustees separate and apart from  
30 the Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This  
31 death benefit shall be a lump-sum payment in the amount of six thousand dollars  
32 (\$6,000) upon the completion of 24 months of contributions required under this  
33 subsection. Should death occur before the completion of 24 months of contributions  
34 required under this subsection, the deceased retired member's surviving spouse or legal  
35 representative if not survived by a spouse shall be paid the sum of the retired member's  
36 contributions required by this subsection plus interest to be determined by the Board of  
37 Trustees.

38 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a retired  
39 member of the Retirement System or Retirement Fund on or after July 1, 2004, there  
40 shall be paid a death benefit to the surviving spouse of a deceased retired member, or to  
41 the deceased retired member's legal representative if not survived by a spouse; provided  
42 the retired member has elected, when first eligible, to make, and has continuously made,  
43 in advance of his death required contributions as determined by the Retirement System  
44 on a fully contributory basis, through retirement allowance deductions or other methods

1 adopted by the Retirement System, to a group death benefit trust fund administered by  
2 the Board of Trustees separate and apart from the Retirement System's Annuity Savings  
3 Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment  
4 in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of  
5 contributions required under this subsection. Should death occur before the completion  
6 of 24 months of contributions required under this subsection, the deceased retired  
7 member's surviving spouse or legal representative if not survived by a spouse shall be  
8 paid the sum of the retired member's contributions required by this subsection plus  
9 interest to be determined by the Board of Trustees."

10 **SECTION 5.** G.S. 135-64(h) reads as rewritten:

11 "(h) Upon the death of a retired member on or after January 1, 1999, but before  
12 July 1, 2004, there shall be paid a death benefit to the surviving spouse of a deceased  
13 retired member or to the deceased retired member's legal representative if not survived  
14 by a spouse; provided the retired member has elected, when first eligible, to make, and  
15 has continuously made, in advance of his death required contributions as determined by  
16 the Board of Trustees on a fully contributory basis, through retirement allowance  
17 deductions or other methods adopted by the Board of Trustees, to a group death benefit  
18 trust fund administered by the Board of Trustees separate and apart from the Retirement  
19 System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit  
20 shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the  
21 completion of 24 months of contributions required under this subsection. Should death  
22 occur before the completion of 24 months of contributions required under this  
23 subsection, the deceased retired member's surviving spouse or legal representative if not  
24 survived by a spouse shall be paid the sum of the retired member's contributions  
25 required by this subsection plus interest to be determined by the Board of Trustees."

26 **SECTION 6.** G.S. 135-64 is amended by adding a new subsection to read:

27 "(i) Upon the death of a retired member on or after July 1, 2004, there shall be  
28 paid a death benefit to the surviving spouse of a deceased retired member or to the  
29 deceased retired member's legal representative if not survived by a spouse; provided the  
30 retired member has elected, when first eligible, to make, and has continuously made, in  
31 advance of his death required contributions as determined by the Board of Trustees on a  
32 fully contributory basis, through retirement allowance deductions or other methods  
33 adopted by the Board of Trustees, to a group death benefit trust fund administered by  
34 the Board of Trustees separate and apart from the Retirement System's Annuity Savings  
35 Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment  
36 in the amount of nine thousand dollars (\$9,000) upon the completion of 24 months of  
37 contributions required under this subsection. Should death occur before the completion  
38 of 24 months of contributions required under this subsection, the deceased retired  
39 member's surviving spouse or legal representative if not survived by a spouse shall be  
40 paid the sum of the retired member's contributions required by this subsection plus  
41 interest to be determined by the Board of Trustees."

42 **SECTION 7.** This act becomes effective July 1, 2004, and applies to persons  
43 dying on or after that date.