

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

**H**

**D**

**HOUSE DRH70171-LL-94 (3/2)**

Short Title: Retirement Systems Technical Corrections.-AB

(Public)

---

Sponsors: Representative Bell.

---

Referred to:

---

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE LAW GOVERNING  
THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE  
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE  
CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE FIREMEN'S  
AND RESCUE SQUAD WORKERS' PENSION FUND.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 135-4(e) reads as rewritten:

"(e) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of service certified on his prior service certificate; and if he has sick leave standing to his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or portion thereof, but not less than one hour; sick leave shall not be counted in computing creditable service for the purpose of determining eligibility for disability retirement or for a vested deferred allowance.

On and after July 1, 1971, a member whose account was closed on account of absence from service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular interest thereon from the date of withdrawal through the year of repayment and thereby increase his creditable service by the amount of creditable service lost when his account was closed.

On and after July 1, 1973, a member whose account in the North Carolina Local Governmental Employees' Retirement System was closed on account of absence from service under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member of this System with credit for five years of service, may thereafter repay in a lump sum the amount withdrawn from the North Carolina Local

1 Governmental Employees' Retirement System plus regular interest thereon from the  
2 date of withdrawal through the year of repayment and thereby increase his creditable  
3 service in this System by the amount of creditable service lost when his account was  
4 closed.

5 On or after July 1, 1979, a member who has obtained 60 months of aggregate  
6 service, or five years of membership service, as an employee of the North Carolina  
7 General Assembly, except legislators, participants in the Legislative Intern Program and  
8 pages, may make a lump sum payment together with interest, and an administrative fee  
9 for such service, to the Teachers' and State Employees' Retirement System of an amount  
10 equal to what he would have contributed had he been a member on his first day of  
11 employment.

12 On and after January 1, 1985, the creditable service of a member who was a member  
13 of the Law-Enforcement Officers' Retirement System at the time of the transfer of  
14 law-enforcement officers employed by the State from that System to this Retirement  
15 System and whose accumulated contributions are transferred from that System to this  
16 Retirement System, shall include service that was creditable in the Law-Enforcement  
17 Officers' Retirement System; and membership service with that System shall be  
18 membership service with this Retirement System; provided, notwithstanding any  
19 provision of this Article to the contrary, any inchoate or accrued rights of such a  
20 member to purchase creditable service for military service, withdrawn service and prior  
21 service under the rules and regulations of the Law-Enforcement Officers' Retirement  
22 System shall not be diminished and may be purchased as creditable service with this  
23 Retirement System under the same conditions which would have otherwise applied."

24 **SECTION 2.** G.S. 135-5(g) reads as rewritten:

25 "(g) Election of Optional Allowance. – With the provision that until the first  
26 payment on account of any benefit becomes normally due, or his first retirement check  
27 has been cashed, any member may elect to receive his benefits in a retirement allowance  
28 payable throughout life, or he may elect to receive the actuarial equivalent of such  
29 retirement allowance in a reduced allowance payable throughout life under the  
30 provisions of one of the options set forth below. The election of Option 2 or Option 3 or  
31 nomination of the person thereunder shall be revoked if such person nominated dies  
32 prior to the date the first payment becomes normally due or until the first retirement  
33 check has been cashed. Such election may be revoked by the member prior to the date  
34 the first payment becomes normally due or until his first retirement check has been  
35 cashed. Provided, however, in the event a member has elected Option 2 or Option 3 and  
36 nominated his or her spouse to receive a retirement allowance upon the member's death,  
37 and the spouse predeceases the member after the first payment becomes normally due or  
38 the first retirement check has been cashed, if the member remarries he or she may  
39 request to nominate a new spouse to receive the retirement allowance under the  
40 previously elected option, within 90 days of the ~~remarriage.~~ remarriage, and may  
41 nominate a new spouse to receive the retirement allowance under the previously elected  
42 option by written designation duly acknowledged and filed with the Board of Trustees  
43 within 120 days of the remarriage. The new nomination shall be effective on the first  
44 day of the month in which it is made and shall provide for a retirement allowance

1 computed to be the actuarial equivalent of the retirement allowance in effect  
2 immediately prior to the effective date of the new nomination. Any member having  
3 elected Options 2, 3, or 6 and nominated his or her spouse to receive a retirement  
4 allowance upon the member's death may, after divorce from his or her spouse, revoke  
5 the nomination and elect a new option, effective on the first day of the month in which  
6 the new option is elected, providing for a retirement allowance computed to be the  
7 actuarial equivalent of the retirement allowance in effect immediately prior to the  
8 effective date of the new option.

9 Option 1.(a) In the Case of a Member Who Retires prior to July 1, 1963. – If he  
10 dies before he has received in annuity payments the present value of  
11 his annuity as it was at the time of his retirement, the balance shall be  
12 paid to his legal representatives or to such person as he shall nominate  
13 by written designation duly acknowledged and filed with the Board of  
14 Trustees.

15 (b) In the Case of a Member Who Retires on or after July 1, 1963, but  
16 prior to July 1, 1993. – If he dies within 10 years from his retirement  
17 date, an amount equal to his accumulated contributions at retirement,  
18 less 1/120 thereof for each month for which he has received a  
19 retirement allowance payment, shall be paid to his legal  
20 representatives or to such person as he shall nominate by written  
21 designation duly acknowledged and filed with the Board of Trustees;  
22 or

23 Option 2. Upon his death his reduced retirement allowance shall be continued  
24 throughout the life of and paid to such person as he shall nominate by written  
25 designation duly acknowledged and filed with the Board of Trustees at the time of his  
26 retirement, provided that if the person selected is other than his spouse the reduced  
27 retirement allowance payable to the member shall not be less than one half of the  
28 retirement allowance without optional modification which would otherwise be payable  
29 to him; or

30 Option 3. Upon his death, one half of his reduced retirement allowance shall be  
31 continued throughout the life of, and paid to such person as he shall nominate by written  
32 designation duly acknowledged and filed with the Board of Trustees at the time of his  
33 retirement; or

34 Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until  
35 the first payment on account of any benefit becomes normally due, any member may  
36 elect to convert his benefit otherwise payable on his account after retirement into a  
37 retirement allowance of equivalent actuarial value of such amount that with his benefit  
38 under Title II of the Federal Social Security Act, he will receive, so far as possible,  
39 approximately the same amount per year before and after the earliest age at which he  
40 becomes eligible, upon application therefor, to receive a social security benefit.

41 Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to  
42 receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as  
43 provided for above, with the modification that if both he and the person nominated die  
44 within 10 years from his retirement date, an amount equal to his accumulated

1 contributions at retirement, less 1/120 thereof for each month for which a retirement  
2 allowance has been paid, shall be paid to his legal representatives or to such person as  
3 he shall nominate by written designation duly acknowledged and filed with the Board of  
4 Trustees.

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

10 **SECTION 3.** G.S. 135-5(g1) reads as rewritten:

11 "(g1) In the event of the death of a retired member while in receipt of a retirement  
12 allowance under the provisions of this Article, there shall be paid to such person or  
13 persons as the retiree shall have nominated by written designation duly acknowledged  
14 and filed with the Board of Trustees, if such person or persons are living at the time of  
15 the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal  
16 to the excess, if any, of the accumulated contributions of the retiree at the date of  
17 retirement over the total of the retirement allowances paid prior to the death of the  
18 retiree.

19 In the event that a retirement allowance becomes payable to the designated survivor  
20 of a retired member under the provisions above and such retirement allowance to the  
21 survivor shall terminate upon the death of the survivor before the total of the retirement  
22 allowances paid to the retiree and the designated survivor combined equals the amount  
23 of the accumulated contributions of the retiree at the date of retirement, the excess, if  
24 any, of such accumulated contributions over the total of the retirement allowances paid  
25 to the retiree and the survivor combined shall be paid in a lump sum to such person or  
26 persons as the retiree shall have nominated by written designation duly acknowledged  
27 and filed with the Board of Trustees, if such person or persons are living at the time  
28 such payment falls due, otherwise to the retiree's legal representative.

29 In the event that a retirement allowance becomes payable to the principal beneficiary  
30 designated to receive a return of accumulated contributions pursuant to subsection (m)  
31 of this section and that beneficiary dies before the total of the retirement allowances  
32 paid equals the amount of the accumulated contributions of the member at the date of  
33 the member's death, the excess of those accumulated contributions over the total of the  
34 retirement allowances paid to the beneficiary shall be paid in a lump sum to the person  
35 or persons the member has designated as the contingent beneficiary for return of  
36 accumulated contributions, if the person or persons are living at the time the payment  
37 falls due, otherwise to the principal beneficiary's legal representative.

38 In the event a retiree purchases creditable service as provided in G.S. 135-4, there  
39 shall be paid to such person or persons as the retiree shall have nominated by written  
40 designation duly acknowledged and filed with the Board of Trustees, if such person or  
41 persons are living at the time of the retiree's death, otherwise to the retiree's legal  
42 representatives, an additional death benefit equal to the excess, if any, of the cost of the  
43 creditable service purchased less the administrative fee, if any, over the total of the  
44 increase in the retirement allowance attributable to the additional creditable service,

1 paid from the month following the month in which payment was received to the death  
2 of the retiree.

3 In the event that a retirement allowance becomes payable to the designated survivor  
4 of a retired member under the provisions above and such retirement allowance to the  
5 survivor shall terminate upon the death of the survivor before the total of the increase in  
6 the retirement allowance attributable to the additional creditable service paid to the  
7 retiree and the designated survivor combined equals the cost of the creditable service  
8 purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to  
9 such person or persons as the retiree shall have nominated by written designation duly  
10 acknowledged and filed with the Board of Trustees, if such person or persons are living  
11 at the time such payment falls due, otherwise to the retiree's legal representative."

12 **SECTION 4.** Article 1 of Chapter 135 is amended by adding a new section  
13 to read:

14 **"§ 135-10.1. Failure to respond.**

15 If a member fails to respond in any way within 90 days after preliminary option  
16 figures and Form 6-E, Election of Benefits, are mailed, the Form 6, Application for  
17 Service, Early or Disability Retirement, shall be null and void; the retirement system  
18 shall not be liable for any benefits due on account of the voided application, and a new  
19 application must be filed establishing a subsequent effective date of retirement. If an  
20 applicant for disability retirement fails to furnish requested additional medical  
21 information within 90 days following such request, the application shall be declared null  
22 and void under the same conditions outlined above, unless the applicant is eligible for  
23 early or service retirement in which case the application shall be processed accordingly,  
24 using the same effective date as would have been used had the application for disability  
25 retirement been approved."

26 **SECTION 5.** G.S. 135-64(c) reads as rewritten:

27 "(c) In the event of the death of a former member while in receipt of a retirement  
28 allowance under the provisions of G.S. 135-58 or 135-60 (but not 135-61), G.S. 135-58,  
29 135-60, or 135-61, if such former member is not survived by a spouse to whom a  
30 retirement allowance is payable under the provisions of subsection (a) or subsection (b)  
31 above, nor survived by a beneficiary to whom a monthly survivorship benefit is payable  
32 under one of the optional modes of payment under G.S. 135-61, there shall be paid to  
33 such person as the member shall have nominated by written designation duly  
34 acknowledged and filed with the Board of Trustees, if such person is living at the time  
35 of the member's death, otherwise to the member's legal representatives, a death benefit  
36 equal to the excess, if any, of the accumulated contributions of the member at his date of  
37 retirement over the total of the retirement allowances paid to him prior to his death."

38 **SECTION 6.** G.S. 135-64(d) reads as rewritten:

39 "(d) In the event that a retirement allowance becomes payable to the spouse of a  
40 former member under the provisions of subsection (a) or subsection (b) above, ~~provided~~  
41 ~~that the member's retirement allowance had not been paid~~ or to the designated survivor  
42 of a former member under one of the optional modes of payment under G.S. 135-61,  
43 and such retirement allowance to the spouse shall terminate on the remarriage or death  
44 of the ~~spouse~~ spouse, or on the death of the designated survivor, before the total of the

1 retirement allowances paid to the former member and his spouse or designated survivor  
2 combined equals the amount of the member's accumulated contributions at his date of  
3 retirement, the excess of such accumulated contributions over the total of the retirement  
4 allowances paid to the former member and his spouse or designated survivor combined  
5 shall be paid in a lump sum to such person as the member shall have nominated by  
6 written designation duly acknowledged and filed with the Board of Trustees, if such  
7 person is living at the time such payment falls due, otherwise to the former member's  
8 legal representatives."

9 **SECTION 7.** G.S. 135-111 reads as rewritten:

10 **"§ 135-111. Applicability of other pension laws.**

11 Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled  
12 "Exemption from taxes, garnishment, attachment, etc."; G.S. 135-10, entitled  
13 "Protection against fraud"; G.S. 135-10, entitled "Failure to Respond"; and G.S. 135-17,  
14 entitled "Facility of payment" shall be applicable to this Article and to benefits paid  
15 pursuant to the provisions of this Article."

16 **SECTION 8.** G.S. 128-26(e) reads as rewritten:

17 "(e) Creditable service at retirement on which the retirement allowance of a  
18 member shall be based shall consist of the membership service rendered by him since he  
19 last became a member, and also if he has a prior service certificate which is in full force  
20 and effect, the amount of the service certified on his prior service certificate; and if he  
21 has sick leave standing to his credit upon retirement on or after July 1, 1971, one month  
22 of credit for each 20 days or portion thereof, but not less than one hour; sick leave shall  
23 not be counted in computing creditable service for the purpose of determining eligibility  
24 for disability retirement or for a vested deferred allowance.

25 On and after July 1, 1971, a member whose account was closed on account of  
26 absence from service under the provisions of G.S. 128-24(1a) and who subsequently  
27 returns to service for a period of five years, may thereafter repay the amount withdrawn  
28 plus regular interest thereon from the date of withdrawal through the year of repayment  
29 and thereby increase his creditable service by the amount of creditable service lost when  
30 this account was closed.

31 On and after July 1, 1973, a member whose account in the Teachers' and State  
32 Employees' Retirement System was closed on account of absence from service under  
33 the provisions of G.S. 135-3(3) and who subsequently became or becomes a member of  
34 this System with credit for five years of service, may thereafter repay in a lump sum the  
35 amount withdrawn from the Teachers' and State Employees' Retirement System plus  
36 regular interest thereon from the date of withdrawal through the year of repayment and  
37 thereby increase his creditable service in this System by the amount of creditable  
38 service lost when his account was closed.

39 Notwithstanding any other provision of this Chapter, any member who entered  
40 service or was restored to service prior to July 1, 1982, and was excluded from  
41 membership service solely on account of having attained the age of 62 years, in  
42 accordance with former G.S. 128-24(3a), may purchase membership service credits for  
43 such excluded service by making a lump-sum payment equal to the contributions that  
44 would have been deducted pursuant to G.S. 128-30(b) had he been a member of the

1 Retirement System, increased by interest calculated at a rate of seven percent (7%) per  
2 annum. Creditable service for unused sick leave shall be allowed only for sick leave  
3 accrued monthly during employment under a duly adopted sick leave policy and for  
4 which the member may be able to take credits and be paid for sick leave without  
5 restriction.

6 On and after January 1, 1986, the creditable service of a member who was a member  
7 of the Law Enforcement Officers' Retirement System at the time of the transfer of law  
8 enforcement officers employed by participating employers from that System to this  
9 Retirement System and whose accumulated contributions are transferred from that  
10 System to this Retirement System, includes service that was creditable in the Law  
11 Enforcement Officers' Retirement System; and membership service with that System is  
12 membership service with this Retirement System; provided, notwithstanding any  
13 provisions of this Article to the contrary, any inchoate or accrued rights of such a  
14 member to purchase creditable service for military service, withdrawn service and prior  
15 service under the rules and regulations of the Law Enforcement Officers' Retirement  
16 System may not be diminished and may be purchased as creditable service with this  
17 Retirement System under the same conditions that would have otherwise applied."

18 **SECTION 9.** G.S. 128-27(g) reads as rewritten:

19 "(g) Election of Optional Allowance. – With the provision that until the first  
20 payment on account of any benefit becomes normally due, or his first retirement check  
21 has been cashed, any member may elect to receive his benefits in a retirement allowance  
22 payable throughout life, or he may elect to receive the actuarial equivalent of such  
23 retirement allowance in a reduced allowance payable throughout life under the  
24 provisions of one of the Options set forth below. The election of Option two or Option  
25 three or nomination of the person thereunder shall be revoked if such person nominated  
26 dies prior to the date the first payment becomes normally due or the first retirement  
27 check has been cashed. Such election may be revoked by the member prior to the date  
28 the first payment becomes normally due or his first retirement check has been cashed.  
29 Provided, however, in the event a member has elected Option 2 or Option 3 and  
30 nominated his or her spouse to receive a retirement allowance upon the member's death,  
31 and the spouse predeceases the member after the first payment becomes normally due or  
32 the first retirement check has been cashed, if the member remarries he or she may  
33 request to nominate a new spouse to receive the retirement allowance under the  
34 previously elected option, within 90 days of the ~~remarriage.~~ remarriage, and may  
35 nominate a new spouse to receive the retirement allowance under the previously elected  
36 option by written designation duly acknowledged and filed with the Board of Trustees  
37 within 120 days of the remarriage.The new nomination shall be effective on the first day  
38 of the month in which it is made and shall provide for a retirement allowance computed  
39 to be the actuarial equivalent of the retirement allowance in effect immediately prior to  
40 the effective date of the new nomination. Any member having elected Options two,  
41 three, or six and nominated his or her spouse to receive a retirement allowance upon the  
42 member's death may, after divorce from his or her spouse, revoke the nomination and  
43 elect a new option, effective on the first day of the month in which the new option is  
44 elected, providing for a retirement allowance computed to be the actuarial equivalent of

1 the retirement allowance in effect immediately prior to the effective date of the new  
2 option.

3 Option one.

4 (a) In the Case of a Member Who Retires prior to July 1, 1965. – If he  
5 dies before he has received in annuity payments the present value of  
6 his annuity as it was at the time of his retirement, the balance shall be  
7 paid to such person as he shall nominate by written designation duly  
8 acknowledged and filed with the Board of Trustees or, if none, to his  
9 legal representative.

10 (b) In the Case of a Member Who Retires on or after July 1, 1965, but  
11 prior to July 1, 1993. – If he dies within 10 years from his retirement  
12 date, an amount equal to his accumulated contributions at retirement,  
13 less one one-hundred-twentieth thereof for each month for which he  
14 has received a retirement allowance payment, shall be paid to such  
15 person as he shall nominate by written designation duly acknowledged  
16 and filed with the Board of Trustees or, if none, to his legal  
17 representative; or

18 Option two. Upon his death his reduced retirement allowance shall be continued  
19 throughout the life of and paid to such person as he shall nominate by written  
20 designation duly acknowledged and filed with the Board of Trustees at the time of his  
21 retirement, provided that if the person selected is other than his spouse the reduced  
22 retirement allowance payable to the member shall not be less than one half of the  
23 retirement allowance without optional modification which would otherwise be payable  
24 to him; or

25 Option three. Upon his death, one half of his reduced retirement allowance shall be  
26 continued throughout the life of, and paid to such person as he shall nominate by written  
27 designation duly acknowledged and filed with the Board of Trustees at the time of his  
28 retirement; or

29 Option four. Adjustment of Retirement Allowance for Social Security Benefits. –  
30 Until the first payment on account of any benefit becomes normally due, any member  
31 may elect to convert his benefit otherwise payable on his account after retirement into a  
32 retirement allowance of equivalent actuarial value of such amount that with his benefit  
33 under Table II of the Federal Social Security Act, he will receive, so far as possible,  
34 approximately the same amount per year before and after the earliest age at which he  
35 becomes eligible, upon application therefor, to receive a social security benefit.

36 Option five. For Members Retiring prior to July 1, 1993. – The member may elect to  
37 receive a reduced retirement allowance under the conditions of Option two or Option  
38 three, as provided for above, with the modification that if both he and the person  
39 nominated die within 10 years from his retirement date, an amount equal to his  
40 accumulated contributions at retirement, less 1/120th thereof for each month for which a  
41 retirement allowance has been paid, shall be paid to his legal representatives or to such  
42 person as he shall nominate by written designation duly acknowledged and filed with  
43 the Board of Trustees.



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

6 **SECTION 10.** G.S. 128-27 reads as rewritten:

7 "(g1) In the event of the death of a retired member while in receipt of a retirement  
8 allowance under the provisions of this Article, there shall be paid to such person or  
9 persons as the retiree shall have nominated by written designation duly acknowledged  
10 and filed with the Board of Trustees, if such person or persons are living at the time of  
11 the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal  
12 to the excess, if any, of the accumulated contributions of the retiree at the date of  
13 retirement over the total of the retirement allowances paid prior to the death of the  
14 retiree.

15 In the event that a retirement allowance becomes payable to the designated survivor  
16 of a retired member under the provisions above and such retirement allowance to the  
17 survivor shall terminate upon the death of the survivor before the total of the retirement  
18 allowances paid to the retiree and the designated survivor combined equals the amount  
19 of the accumulated contributions of the retiree at the date of retirement, the excess, if  
20 any, of such accumulated contributions over the total of the retirement allowances paid  
21 to the retiree and the survivor combined shall be paid in a lump sum to such person or  
22 persons as the retiree shall have nominated by written designation duly acknowledged  
23 and filed with the Board of Trustees, if such person or persons are living at the time  
24 such payment falls due, otherwise to the retiree's legal representative.

25 In the event that a retirement allowance becomes payable to the principal beneficiary  
26 designated to receive a return of accumulated contributions pursuant to subsection (m)  
27 of this section and that beneficiary dies before the total of the retirement allowances  
28 paid equals the amount of the accumulated contributions of the member at the date of  
29 the member's death, the excess of those accumulated contributions over the total of the  
30 retirement allowances paid to the beneficiary shall be paid in a lump sum to the person  
31 or persons the member has designated as the contingent beneficiary for return of  
32 accumulated contributions, if the person or persons are living at the time the payment  
33 falls due, otherwise to the principal beneficiary's legal representative.

34 In the event a retiree purchases creditable service as provided in G.S. 128-26, there  
35 shall be paid to such person or persons as the retiree shall have nominated by written  
36 designation duly acknowledged and filed with the Board of Trustees, if such person or  
37 persons are living at the time of the retiree's death, otherwise to the retiree's legal  
38 representatives, an additional death benefit equal to the excess, if any, of the cost of the  
39 creditable service purchased less the administrative fee, if any, over the total of the  
40 increase in the retirement allowance attributable to the additional creditable service,  
41 paid from the month following the month in which payment was received to the death  
42 of the retiree.

43 In the event that a retirement allowance becomes payable to the designated survivor  
44 of a retired member under the provisions above, and such retirement allowance to the

1 survivor shall terminate upon the death of the survivor before the total of the increase in  
2 the retirement allowance attributable to the additional creditable service paid to the  
3 retiree and the designated survivor combined equals the cost of the creditable service  
4 purchased less the administrative fee, the excess, if any, shall be paid in a lump sum to  
5 such person or persons as the retiree shall have nominated by written designation duly  
6 acknowledged and filed with the Board of Trustees, if such person or persons are living  
7 at the time such payment falls due, otherwise to the retiree's legal representative."

8 **SECTION 11.** G.S. 128-31 reads as rewritten:

9 **"§ 128-31. Exemptions from execution.**

10 Except for the applications of the provisions of G.S. 110-136, and G.S. 110-136.3 et  
11 seq., and in connection with a court-ordered equitable distribution under G.S. 50-20, the  
12 right of a person to a pension, an annuity, or a retirement allowance, to the return of  
13 contributions, the pension, annuity or retirement allowance itself, any optional benefit or  
14 any other right accrued or accruing to any person under the provisions of this Article,  
15 and the moneys in the various funds created by this Article, are exempt from levy and  
16 sale, garnishment, attachment, or any other process whatsoever, and shall be  
17 unassignable except as in this Article specifically otherwise provided. Notwithstanding  
18 any provisions to the contrary, any overpayment of benefits to a member in a  
19 State-administered retirement ~~system or system~~, the Disability Salary Continuation ~~Plan~~  
20 Plan, or the Disability Income Plan of North Carolina may be offset against any  
21 retirement allowance, return of contributions or any other right accruing under this  
22 Chapter to the same person, the person's estate, or designated beneficiary."

23 **SECTION 12.** Article 3 of Chapter 128 of the General Statutes is amended  
24 by adding a new section to read:

25 **"§ 128-32.1. Failure to respond.**

26 If a member fails to respond in any way within 90 days after preliminary option  
27 figures and Form 6-E, Election of Benefits, are mailed, the Form 6, Application for  
28 Service, Early, or Disability Retirement, shall be null and void; the retirement system  
29 shall not be liable for any benefits due on account of the voided application, and a new  
30 application must be filed establishing a subsequent effective date of retirement. If an  
31 applicant for disability retirement fails to furnish requested additional medical  
32 information within 90 days following such request, the application shall be declared null  
33 and void under the same conditions outlined above, unless the applicant is eligible for  
34 early or service retirement in which case the application shall be processed accordingly,  
35 using the same effective date as would have been used had the application for disability  
36 retirement been approved."

37 **SECTION 13.** G.S. 58-86-85 is repealed.

38 **SECTION 14.** G.S. 58-86-35 reads as rewritten:

39 **"§ 58-86-35. Firemen's application for membership in fund; monthly payments by**  
40 **members; payments credited to separate accounts of members.**  
41 **members; termination of membership.**

42 Those firemen who are eligible pursuant to G.S. 58-86-25 may make application for  
43 membership to the board. Each fireman upon becoming a member of the fund shall pay  
44 the director of the fund the sum of ten dollars (\$10.00) per month. The monthly

1 payments shall be credited to the separate account of the member and shall be kept by  
2 the custodian so it is available for payment on withdrawal from membership or  
3 retirement.

4 A member may elect to terminate membership in the fund at anytime and request the  
5 refund of payments previously made to the fund. However, a member's delinquency in  
6 making the monthly payments required by this section does not result in the termination  
7 of membership without such an election by the member."

8 **SECTION 15.** G.S. 58-86-40 reads as rewritten:

9 "**§ 58-86-40. Rescue squad worker's application for membership in funds; monthly**  
10 **payments by members; payments credited to separate accounts of**  
11 **members. members; termination of membership.**

12 Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the  
13 board for membership. Each eligible rescue squad worker upon becoming a member  
14 shall pay the director of the fund the sum of ten dollars (\$10.00) per month. The  
15 monthly payments shall be credited to the separate account of the member and shall be  
16 kept by the custodian so it is available for payment on withdrawal from membership or  
17 retirement.

18 A member may elect to terminate membership in the fund at anytime and request the  
19 refund of payments previously made to the fund. However, a member's delinquency in  
20 making the monthly payments required by this section does not result in the termination  
21 of membership without such an election by the member."

22 **SECTION 16.** This act becomes effective July 1, 2005.