

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 710
Committee Substitute Favorable 5/5/05

Short Title: Retirement Systems Technical Corrections.-AB

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO MAKE TECHNICAL CORRECTIONS TO THE LAW GOVERNING
3 THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE
4 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM, THE
5 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE FIREMEN'S
6 AND RESCUE SQUAD WORKERS' PENSION FUND.

7 The General Assembly of North Carolina enacts:

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

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

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20 amount withdrawn plus regular interest thereon from the date of withdrawal through the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

23 On and after July 1, 1973, a member whose account in the North Carolina Local
24 Governmental Employees' Retirement System was closed on account of absence from
25 service under the provisions of G.S. 128-24(1a) and who subsequently became or
26 becomes a member of this System with credit for five years of service, may thereafter
27 repay in a lump sum the amount withdrawn from the North Carolina Local
28 Governmental Employees' Retirement System plus regular interest thereon from the
29 date of withdrawal through the year of repayment and thereby increase his creditable

1 service in this System by the amount of creditable service lost when his account was
2 closed.

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

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

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

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

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

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

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

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

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

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

39 Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to
40 receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as
41 provided for above, with the modification that if both he and the person nominated die
42 within 10 years from his retirement date, an amount equal to his accumulated
43 contributions at retirement, less 1/120 thereof for each month for which a retirement
44 allowance has been paid, shall be paid to his legal representatives or to such person as

1 he shall nominate by written designation duly acknowledged and filed with the Board of
2 Trustees.

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

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

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

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

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

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

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

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

12 **"§ 135-10.1. Failure to respond.**

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

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

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

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

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

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

7 **SECTION 6.1.** G.S. 135-106(a) reads as rewritten:

8 "(a) **(Effective until August 1, 2005)** Upon the application of a beneficiary or
9 participant or of his legal representative or any person deemed by the Board of Trustees
10 to represent the participant or beneficiary, any beneficiary or participant who has had
11 five or more years of membership service may receive long-term disability benefits
12 from the Plan upon approval by the Board of Trustees, commencing on the first day
13 succeeding the conclusion of the short-term disability period provided for in
14 G.S. 135-105, provided the beneficiary or participant makes application for such benefit
15 within 180 days after the short-term disability period ceases, after salary continuation
16 payments cease, or after monthly payments for Workers' Compensation cease,
17 whichever is later; Provided, that the beneficiary or participant withdraws from active
18 service by terminating employment as a teacher or State employee; Provided, that the
19 Medical Board shall certify that such beneficiary or participant is mentally or physically
20 incapacitated for the further performance of duty, that such incapacity was incurred at
21 the time of active employment and has been continuous thereafter, that such incapacity
22 is likely to be permanent; Provided further that the Medical Board shall not certify any
23 beneficiary or participant as disabled who is in receipt of any payments on account of
24 the same incapacity which existed when the beneficiary first established membership in
25 the Retirement System. The Board of Trustees may extend this 180-day filing
26 requirement upon receipt of clear and convincing evidence that application was delayed
27 through no fault of the disabled beneficiary or participant and was delayed due to the
28 employers' miscalculation of the end of the 180-day filing period. However, in no
29 instance shall the filing period be extended beyond an additional 180 days.

30 The Board of Trustees may require each beneficiary who becomes eligible to receive
31 a long-term disability benefit to have an annual medical review or examination for the
32 first five years and thereafter once every three years after the commencement of benefits
33 under this section. However, the Board of Trustees may require more frequent
34 examinations and upon the advice of the Medical Board shall determine which cases
35 require such examination. Should any beneficiary refuse to submit to any examination
36 required by this subsection or by the Medical Board, his long-term disability benefit
37 shall be suspended until he submits to an examination, and should his refusal last for
38 one year, his benefit may be terminated by the Board of Trustees. If the Medical Board
39 finds that a beneficiary is no longer mentally or physically incapacitated for the further
40 performance of duty, the Medical Board shall so certify this finding to the Board of
41 Trustees, and the Board of Trustees may terminate the beneficiary's long-term disability
42 benefits effective on the last day of the month in which the Medical Board certifies that
43 the beneficiary is no longer disabled.

1 As to the requirement of five years of membership service, any participant or
2 beneficiary who does not have five years of membership service within the 96 calendar
3 months prior to ~~conclusion of the short term disability period~~ becoming disabled or
4 upon cessation of continuous salary continuation payments, whichever is later, shall not
5 be eligible for long-term disability benefits.

6 Notwithstanding the requirement that the incapacity was incurred at the time of
7 active employment, any participant who becomes disabled while on an employer
8 approved leave of absence and who is eligible for and in receipt of temporary total
9 benefits under The North Carolina Workers' Compensation Act, Article 1 of Chapter 97
10 of the General Statutes, will be eligible for all benefits provided under this Article."

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

12 "**§ 135-111. Applicability of other pension laws.**

13 Subject to the provisions of this Article, the provisions of G.S. 135-9, entitled
14 "Exemption from taxes, garnishment, attachment, etc."; G.S. 135-10, entitled
15 "Protection against fraud"; G.S. 135-10.1, entitled "Failure to Respond"; and
16 G.S. 135-17, entitled "Facility of payment" shall be applicable to this Article and to
17 benefits paid pursuant to the provisions of this Article."

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

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

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

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

41 Notwithstanding any other provision of this Chapter, any member who entered
42 service or was restored to service prior to July 1, 1982, and was excluded from
43 membership service solely on account of having attained the age of 62 years, in
44 accordance with former G.S. 128-24(3a), may purchase membership service credits for

1 such excluded service by making a lump-sum payment equal to the contributions that
2 would have been deducted pursuant to G.S. 128-30(b) had he been a member of the
3 Retirement System, increased by interest calculated at a rate of seven percent (7%) per
4 annum. Creditable service for unused sick leave shall be allowed only for sick leave
5 accrued monthly during employment under a duly adopted sick leave policy and for
6 which the member may be able to take credits and be paid for sick leave without
7 restriction.

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

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

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

1 spouse, revoke the nomination and elect a new option, effective on the first day of the
2 month in which the new option is elected, providing for a retirement allowance
3 computed to be the actuarial equivalent of the retirement allowance in effect
4 immediately prior to the effective date of the new option.

5 Option one.

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

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

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

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

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

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

1 person as he shall nominate by written designation duly acknowledged and filed with
2 the Board of Trustees.

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

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

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

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

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

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

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

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

11 **"§ 128-31. Exemptions from execution.**

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

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

27 **"§ 128-32.1. Failure to respond.**

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

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

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

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

1 Those firemen who are eligible pursuant to G.S. 58-86-25 may make application for
2 membership to the board. Each fireman upon becoming a member of the fund shall pay
3 the director of the fund the sum of ten dollars (\$10.00) per month. The monthly
4 payments shall be credited to the separate account of the member and shall be kept by
5 the custodian so it is available for payment on withdrawal from membership or
6 retirement.

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

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

12 "**§ 58-86-40. Rescue squad worker's application for membership in funds; monthly**
13 **payments by members; payments credited to separate accounts of**
14 **members. members; termination of membership.**

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

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

25 **SECTION 16.** Section 6.1 of this act becomes effective December 1, 2004.

26 The remainder of this act becomes effective July 1, 2005.