

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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SENATE DRS75253-LL-99 (3/3)

Short Title: Retirement Beneficiary Designation.

(Public)

Sponsors: Senator Dorsett.

Referred to:

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT THE BENEFICIARY OF A RETURN OF
3 CONTRIBUTIONS UPON THE DEATH OF A MEMBER PRIOR TO
4 RETIREMENT FROM THE STATE RETIREMENT SYSTEMS, THE OPTIONAL
5 RETIREMENT PLANS FOR THE UNIVERSITY OF NORTH CAROLINA
6 SYSTEM OR THE COMMUNITY COLLEGE SYSTEM, OR BEFORE
7 WITHDRAWAL FROM THE STATE SUPPLEMENTAL RETIREMENT
8 INCOME PLAN OR THE STATE DEFERRED COMPENSATION PLAN SHALL
9 BE THE MEMBER'S SPOUSE UNLESS THE MEMBER PROVIDED
10 OTHERWISE BEFORE THE MEMBER'S DEATH.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 135-5(f) reads as rewritten:

13 "(f) Return of Accumulated Contributions. – Should a member cease to be a
14 teacher or State employee except by death or retirement under the provisions of this
15 Chapter, he shall upon submission of an application be paid, not earlier than 60 days
16 from the date of termination of service, his contributions, and if he has attained at least
17 five years of membership service or if termination of his membership service is
18 involuntary as certified by the employer, the accumulated regular interest thereon,
19 provided that he has not in the meantime returned to service. Upon payment of such
20 sum his membership in the System shall cease and, if he thereafter again becomes a
21 member, no credit shall be allowed for any service previously rendered except as
22 provided in G.S. 135-4, and such payment shall be in full and complete discharge of any
23 rights in or to any benefits otherwise payable hereunder. Upon receipt of proof
24 satisfactory to the Board of Trustees of the death, prior to retirement, of a member or
25 former member there shall be paid to ~~such person or persons as he shall have nominated~~
26 ~~by written designation duly acknowledged and filed with the Board of Trustees, if such~~
27 ~~person or persons are~~ the member's spouse, or to a person or persons other than the

1 member's spouse that the member nominated by written designation duly acknowledged
2 and filed with the Board of Trustees on or after January 1, 2006, but before the
3 member's death, if the spouse or designated other person is living at the time of the
4 member's death, otherwise to the member's legal representatives, the amount of his
5 accumulated contributions at the time of his death, unless the beneficiary elects to
6 receive the alternate benefit under the provisions of (m) below. An extension service
7 employee who made contributions to the Local Governmental Employees' Retirement
8 System and the Teachers' and State Employees' Retirement System as a result of dual
9 employment may not be paid his accumulated contributions unless he is eligible to be
10 paid his accumulated contributions in both systems for the same period of service.

11 Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the
12 Consolidated Judicial Retirement System may irrevocably elect to transfer any
13 accumulated contributions to the Consolidated Judicial Retirement System or to the
14 Supplemental Retirement Income Plan and forfeit any rights in or to any benefits
15 otherwise payable hereunder.

16 A member who is a participant or beneficiary of the Disability Income Plan of North
17 Carolina as is provided in Article 6 of this Chapter shall not be paid a return of
18 accumulated contributions, notwithstanding the member's status as an employee or
19 teacher. Notwithstanding any other provision of law to the contrary, a member who is a
20 beneficiary of the Disability Income Plan of North Carolina as provided in Article 6 of
21 this Chapter and who is receiving disability benefits under the transition provisions as
22 provided in G.S. 135-112, shall not be prohibited from receiving a return of
23 accumulated contributions as provided in this subsection."

24 **SECTION 2.** G.S. 128-27(f) reads as rewritten:

25 "(f) Return of Accumulated Contributions. – Should a member cease to be an
26 employee except by death or retirement under the provisions of this Chapter, he shall
27 upon submission of an application be paid, not earlier than 60 days from the date of
28 termination of service, his contributions and, if he has attained at least five years of
29 membership service or if termination of his membership service is involuntary as
30 certified by the employer, the accumulated regular interest thereon, provided that he has
31 not in the meantime returned to service. Upon payment of such sum his membership in
32 the System shall cease and, if he thereafter again becomes a member, no credit shall be
33 allowed for any service previously rendered except as provided in G.S. 128-26; and
34 such payment shall be in full and complete discharge of any rights in or to any benefits
35 otherwise payable hereunder. Upon receipt of proof satisfactory to the Board of
36 Trustees of the death, prior to retirement, of a member or former member there shall be
37 paid to ~~such person or persons as he shall have nominated by written designation duly~~
38 ~~acknowledged and filed with the Board of Trustees, if such person or persons are the~~
39 member's spouse, or to a person or persons other than the member's spouse that the
40 member nominated by written designation duly acknowledged and filed with the Board
41 of Trustees on or after January 1, 2006, but before the member's death, if the spouse or
42 designated other person is living at the time of the member's death, otherwise to the
43 member's legal representatives, the amount of his accumulated contributions at the time
44 of his death, unless the beneficiary elects to receive the alternate benefit under the

1 provisions of (m) below. An extension service employee who made contributions to the
2 Local Governmental Employees' Retirement System and the Teachers' and State
3 Employees' Retirement System as a result of dual employment may not be paid his
4 accumulated contributions unless he is eligible to be paid his accumulated contributions
5 in both systems for the same period of service.

6 Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the
7 Consolidated Judicial Retirement System may irrevocably elect to transfer any
8 accumulated contributions to the Consolidated Judicial Retirement System or to the
9 Supplemental Retirement Income Plan and forfeit any rights in or to any benefits
10 otherwise payable hereunder."

11 **SECTION 3.** G.S. 120-4.25 reads as rewritten:

12 "**§ 120-4.25. Return of accumulated contributions.**

13 If a member ceases to be a member of the General Assembly except by death or
14 retirement, he shall, upon submission of an application, be paid not earlier than 60 days
15 following the date of termination of service, the sum of his contributions if he has less
16 than five years of creditable service, or the sum of his accumulated contributions if he
17 has five or more years of creditable service, provided he has not in the meantime
18 returned to service. Upon payment of this sum his membership in the System ceases. If
19 he becomes a member afterwards, no credit shall be allowed for any service previously
20 rendered except as provided in G.S. 120-4.14 and the payment shall be in full and
21 complete discharge of any rights in or to any benefits otherwise payable under this
22 Article. Upon receipt of proof satisfactory to the Board of Trustees of the death, prior to
23 retirement, of a member or former member, there shall be paid to ~~the person or persons~~
24 ~~he nominated by written designation duly acknowledged and filed with the Board of~~
25 ~~Trustees, if the person or persons are~~ the member's spouse, or to a person or persons
26 other than the member's spouse that the member nominated by written designation duly
27 acknowledged and filed with the Board of Trustees on or after January 1, 2006, but
28 before the member's death, if the spouse or designated other person is living at the time
29 of the member's death, otherwise to the member's legal representatives, the amount of
30 his accumulated contributions at the time of his death, unless the beneficiary elects to
31 receive the alternate benefit under the provisions of G.S. 120-4.28."

32 **SECTION 4.** G.S. 135-63(c) reads as rewritten:

33 "(c) Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a
34 member not in service, there shall be paid in a lump sum to ~~such person as the member~~
35 ~~shall have nominated by written designation duly acknowledged and filed with the~~
36 ~~Board of Trustees, if such person is~~ the member's spouse, or to a person or persons other
37 than the member's spouse that the member nominated by written designation duly
38 acknowledged and filed with the Board of Trustees on or after January 1, 2006, but
39 before the member's death, if the spouse or designated other person is living at the time
40 of the member's death, otherwise to the member's legal representatives, a death benefit
41 equal to the member's accumulated contributions."

42 **SECTION 5.** G.S. 135-5.1 is amended by adding a new subsection to read:

43 "(e1) Upon receipt of proof satisfactory to the Board of Governors of the death,
44 prior to retirement, of an employee participating in the Optional Retirement Program,

1 there shall be paid in a lump sum to the member's spouse, or to a person or persons
2 other than the member's spouse that the member nominated by written designation duly
3 acknowledged and filed with the Board of Governors on or after January 1, 2006, but
4 before the member's death, if the spouse or designated other person is living at the time
5 of the member's death, otherwise to the member's legal representatives, a death benefit
6 equal to the member's accumulated contributions."

7 **SECTION 6.** G.S. 135-5.4 is amended by adding a new subsection to read:

8 "(e1) Upon receipt of proof satisfactory to the State Board of Community Colleges
9 of the death, prior to retirement, of an employee participating in the Optional
10 Retirement Program, there shall be paid in a lump sum to the member's spouse, or to a
11 person or persons other than the member's spouse that the member nominated by written
12 designation duly acknowledged and filed with the State Board on or after January 1,
13 2006, but before the member's death, if the spouse or designated other person is living at
14 the time of the member's death, otherwise to the member's legal representatives, a death
15 benefit equal to the member's accumulated contributions."

16 **SECTION 7.** G.S. 135-94 is amended by adding a new subsection to read:

17 "(e) Upon receipt of proof satisfactory to the Board of Trustees of the death, prior
18 to withdrawal, of a member of the Supplemental Retirement Income Plan, there shall be
19 paid in a lump sum to the member's spouse, or to a person or persons other than the
20 member's spouse that the member nominated by written designation duly acknowledged
21 and filed with the Board of Trustees on or after January 1, 2006, but before the
22 member's death, if the spouse or designated other person is living at the time of the
23 member's death, otherwise to the member's legal representatives, a death benefit equal
24 to the member's accumulated contributions."

25 **SECTION 8.** G.S. 143B-426.24 is amended by adding a new subsection to
26 read:

27 "(j1) Upon receipt of proof satisfactory to the Board of the death, prior to
28 withdrawal, of a Plan participant, there shall be paid in a lump sum to the member's
29 spouse, or to a person or persons other than the member's spouse that the member
30 nominated by written designation duly acknowledged and filed with the Board on or
31 after January 1, 2006, but before the member's death, if the spouse or designated other
32 person is living at the time of the member's death, otherwise to the member's legal
33 representatives, a death benefit equal to the member's accumulated contributions."

34 **SECTION 9.** This act becomes effective January 1, 2006, and applies to
35 returns of contributions on or after that date.