

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**HOUSE BILL 1584\***

Short Title: Increase Retiree Death Benefit.

(Public)

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Sponsors: Representatives Barbee (By Request); and Kiser.

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

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May 28, 1998

**A BILL TO BE ENTITLED**

**AN ACT TO INCREASE THE CONTRIBUTORY DEATH BENEFIT FOR RETIREES  
IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE  
CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE  
RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL RETIREMENT  
SYSTEM.**

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(l) reads as rewritten:

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

- 1           (1)    The compensation on which contributions were made by the member  
2                    during the calendar year preceding the year in which his death occurs, or  
3           (2)    The greatest compensation on which contributions were made by the  
4                    member during a 12-month period of service within the 24-month  
5                    period of service ending on the last day of the month preceding the  
6                    month in which his last day of actual service occurs;  
7           (3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s.  
8                    2.

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

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

- 18           (1)    After December 31, 1968 and after he has attained age 70; or  
19           (2)    After December 31, 1969 and after he has attained age 69; or  
20           (3)    After December 31, 1970 and after he has attained age 68; or  
21           (4)    After December 31, 1971 and after he has attained age 67; or  
22           (5)    After December 31, 1972 and after he has attained age 66; or  
23           (6)    After December 31, 1973 and after he has attained age 65; or  
24           (7)    After December 31, 1978, but before January 1, 1987, and after he has  
25                    attained age 70.

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

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

1 Board of Trustees and all investment earnings on the trust fund shall be credited to such  
2 fund.

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

4 (1) For the purpose of determining eligibility only, in this subsection  
5 "calendar year" shall mean any period of 12 consecutive months or, if  
6 less, the period covered by an annual contract of employment. For all  
7 other purposes in this subsection "calendar year" shall mean the 12  
8 months beginning January 1 and ending December 31.

9 (2) Last day of actual service shall be:

10 a. When employment has been terminated, the last day the member  
11 actually worked.

12 b. When employment has not been terminated, the date on which an  
13 absent member's sick and annual leave expire, unless he is on  
14 approved leave of absence and is in service under the provisions  
15 of G.S. 135-4(h).

16 (3) For a period when a member is on leave of absence, his status with  
17 respect to the death benefit will be determined by the provisions of G.S.  
18 135-4(h).

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

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

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

42 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under this  
43 subsection, of the death of a retired member of the Retirement System on or after July 1,

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

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

32 Section 2. G.S. 135-64(g) reads as rewritten:

33 "(g) Upon the death of a retired member on or after July 1, 1988, but before  
34 January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased  
35 retired member or to the deceased retired member's legal representative if not survived by  
36 a spouse; provided the retired member has elected, when first eligible, to make, and has  
37 continuously made, in advance of his death required contributions as determined by the  
38 Board of Trustees on a fully contributory basis, through retirement allowance deductions  
39 or other methods adopted by the Board of Trustees, to a group death benefit trust fund  
40 administered by the Board of Trustees separate and apart from the Retirement System's  
41 Annuity Savings Fund and Pension Accumulation Fund. This death benefit shall be a  
42 lump-sum payment in the amount of five thousand dollars (\$5,000) upon the completion  
43 of 24 months of contributions required under this subsection. Should death occur before

1 the completion of 24 months of contributions required under this subsection, the deceased  
2 retired member's surviving spouse or legal representative if not survived by a spouse shall  
3 be paid the sum of the retired member's contributions required by this subsection plus  
4 interest to be determined by the Board of Trustees."

5 Section 3. G.S. 135-64 is amended by adding a new subsection to read:

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

21 Section 4. G.S. 120-4.27 reads as rewritten:

22 **"§ 120-4.27. Death benefit.**

23 The designated beneficiary of a member who dies while in service after completing  
24 one year of creditable service shall receive a lump-sum payment of an amount equal to  
25 the deceased member's highest annual salary, to a maximum of fifteen thousand dollars  
26 (\$15,000). For purposes of this death benefit "in service" means currently serving as a  
27 member of the North Carolina General Assembly.

28 The death benefit provided by this section shall be designated a group life insurance  
29 benefit payable under an employee welfare benefit plan that is separate and apart from  
30 the Retirement System but under which the members of the Retirement System shall  
31 participate and be eligible for group life insurance benefits. The Board of Trustees is  
32 authorized to provide the death benefit in the form of group life insurance either by  
33 purchasing a contract or contracts of group life insurance with any life insurance  
34 company or companies licensed and authorized to transact business in the State of North  
35 Carolina for the purpose of insuring the lives of qualified members in service, or by  
36 establishing or affiliating with a separate trust fund qualified under Section 501(c)(9) of  
37 the Internal Revenue Code of 1954, as amended.

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, 1988, but before  
40 January 1, 1999, there shall be paid a death benefit to the surviving spouse of a deceased  
41 retired member, or to the deceased retired member's legal representative if not survived  
42 by a spouse; provided the retired member has elected, when first eligible, to make, and  
43 has continuously made, in advance of his death required contributions as determined by

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

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

28 Section 5. G.S. 128-27(12) reads as rewritten:

29 "(12) Death Benefit for Retired Members. – Upon receipt of proof, satisfactory to the  
30 Board of Trustees in its capacity under this subsection, of the death of a retired member  
31 of the Retirement System on or after July 1, 1988, but before January 1, 1999, there shall  
32 be paid a death benefit to the surviving spouse of the deceased retired member or to the  
33 deceased retired member's legal representative if not survived by a spouse; provided the  
34 retired member has elected, when first eligible, to make, and has continuously made, in  
35 advance of his death required contributions as determined by the Board of Trustees on a  
36 fully contributory basis through retirement allowance deductions or other methods  
37 adopted by the Board of Trustees, to a group death benefit trust fund administered by the  
38 Board of Trustees separate and apart from the Retirement System's Annuity Savings  
39 Fund and Pension Accumulation Fund. This death benefit shall be a lump-sum payment  
40 in the amount of five thousand dollars (\$5,000) upon the completion of 24 months of  
41 contributions required under this subsection. Should death occur before the completion of  
42 24 months of contributions required under this subsection, the deceased retired member's  
43 surviving spouse or legal representative if not survived by a spouse shall be paid the sum

1 of the retired member's contributions required by this subsection plus interest to be  
2 determined by the Board of Trustees."

3 Section 6. G.S. 128-27 is amended by adding a new subsection to read:

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

21 Section 7. This act becomes effective January 1, 1999.