

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 538

Pensions & Retirement and Insurance Committee Substitute Adopted 4/28/97

Short Title: Professional Firefighters' Retirement.

(Public)

Sponsors:

Referred to: Appropriations.

March 27, 1997

A BILL TO BE ENTITLED

AN ACT TO DEFINE A PROFESSIONAL FIREFIGHTERS' BENEFIT ACCRUAL RATE FOR MEMBERS AND BENEFICIARIES OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21 is amended by adding a new subdivision to read:

"(17a) Professional firefighter means a full-time, paid employee of an employer, maintaining a fire department certified by the North Carolina Department of Insurance, who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire."

Section 2. G.S. 128-24(5) reads as rewritten:

"(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

a. Notwithstanding any other provision of this Chapter, any member who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 15 or

1 more years of creditable service, and who leaves his total
2 accumulated contributions in said System shall have the right to
3 retire on a deferred retirement allowance upon attaining the age
4 of 60 years; provided that such member may retire only upon
5 written application to the Board of Trustees setting forth at what
6 time, not less than one day nor more than 90 days subsequent to
7 the execution and filing thereof, he desires to be retired; and
8 further provided that in the case of a member who so separates
9 from service on or after July 1, 1967, the aforestated requirement
10 of 15 or more years of creditable service shall be reduced to 12 or
11 more years of creditable service; and further provided that in the
12 case of a member who so separates from service on or after July
13 1, 1971, or whose account is active on July 1, 1971, the
14 aforestated requirement of 12 or more years of creditable service
15 shall be reduced to five or more years of creditable service. Such
16 deferred retirement allowance shall be computed in accordance
17 with the service retirement provisions of this Article pertaining to
18 a member who is not a law enforcement officer or eligible former
19 law enforcement officer.

- 20 b. In lieu of the benefits provided in paragraph a of this subdivision,
21 any member who separates from service prior to the attainment
22 of the age of 60 years, for any reason other than death or
23 retirement for disability as provided in G.S. 128-27(c), after
24 completing 20 or more years of creditable service, and who
25 leaves his total accumulated contributions in said System may
26 elect to retire on an early retirement allowance upon attaining the
27 age of 50 years or at any time thereafter; provided that such
28 member may so retire only upon written application to the Board
29 of Trustees setting forth at what time, not less than one day nor
30 more than 90 days subsequent to the execution and filing thereof,
31 he desires to be retired. Such early retirement allowance so
32 elected shall be equal to the deferred retirement allowance
33 otherwise payable at the attainment of the age of 60 years
34 reduced by the percentage thereof indicated below.

35 Age at	36 Percentage
37 Retirement	38 Reduction
39 59	40 7
41 58	42 14
43 57	20
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- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer or a professional firefighter at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System, may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers.~~ officers or professional firefighters.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer or professional firefighter at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred service retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred service retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers.~~ officers or professional firefighters.
- b3. Deferred retirement allowance of members retiring on or after July 1, 1995. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who separates from service prior to attainment of age 60 years, after completing 20 or

1 more years of creditable service, and who leaves his total
2 accumulated contributions in said System, may elect to retire on
3 a deferred retirement allowance upon attaining the age of 50
4 years or any time thereafter; provided that such member may so
5 retire only upon written application to the Board of Trustees
6 setting forth at what time, not less than one day nor more than 90
7 days subsequent to the execution and filing thereof, he desires to
8 be retired. Such deferred retirement allowance shall be computed
9 in accordance with the service retirement provisions of this
10 Article pertaining to a member who is not a law enforcement
11 officer or an eligible former law enforcement officer.

12 c. Should a beneficiary who retired on an early or service
13 retirement allowance be reemployed, or otherwise engaged to
14 perform services, by an employer participating in the Retirement
15 System on a part-time, temporary, interim, or on fee-for-service
16 basis, whether contractual or otherwise, and if such beneficiary
17 earns an amount in any calendar year which exceeds fifty percent
18 (50%) of the reported compensation, excluding terminal
19 payments, during the 12 months of service preceding the
20 effective date of retirement, or twenty thousand dollars
21 (\$20,000), whichever is greater, as hereinafter indexed, then the
22 retirement allowance shall be suspended as of the first day of the
23 month following the month in which the reemployment earnings
24 exceed the amount above, for the balance of the calendar year.
25 The retirement allowance of the beneficiary shall be reinstated as
26 of January 1 of each year following suspension. The amount that
27 may be earned before suspension shall be increased on January 1
28 of each year by the ratio of the Consumer Price Index to the
29 Index one year earlier, calculated to the nearest tenth of a percent
30 (1/10 of 1%).

31 d. Should a beneficiary who retired on an early or service
32 retirement allowance be restored to service as an employee, then
33 the retirement allowance shall cease as of the first day of the
34 month following the month in which the beneficiary is restored
35 to service and the beneficiary shall become a member of the
36 Retirement System and shall contribute thereafter as allowed by
37 law at the uniform contribution payable by all members.

38 Upon his subsequent retirement, he shall be paid a retirement
39 allowance determined as follows:

40 1. For a member who earns at least three years' membership
41 service after restoration to service, the retirement
42 allowance shall be computed on the basis of his
43 compensation and service before and after the period of

1 prior retirement without restriction; provided, that if the
2 prior allowance was based on a social security leveling
3 payment option, the allowance shall be adjusted
4 actuarially for the difference between the amount received
5 under the optional payment and what would have been
6 paid if the retirement allowance had been paid without
7 optional modification.

- 8 2. For a member who does not earn three years' membership
9 service after restoration to service, the retirement
10 allowance shall be equal to the sum of the retirement
11 allowance to which he would have been entitled had he
12 not been restored to service, without modification of the
13 election of an optional allowance previously made, and
14 the retirement allowance that results from service earned
15 since being restored to service; provided, that if the prior
16 retirement allowance was based on a social security
17 leveling payment option, the prior allowance shall be
18 adjusted actuarially for the difference between the amount
19 that would have been paid for each month had the
20 payment not been suspended and what would have been
21 paid if the retirement allowance had been paid without
22 optional modification."

23 Section 3. G.S. 128-27(a) reads as rewritten:

24 "(a) Service Retirement Benefits. –

- 25 (1) Any member may retire upon written application to the Board of
26 Trustees setting forth at what time, as of the first day of a calendar
27 month, not less than one day nor more than 90 days subsequent to the
28 execution and filing thereof, he desires to be retired: Provided, that the
29 said member at the time so specified for his retirement shall have
30 attained the age of 60 years and have at least five years of creditable
31 service or shall have completed 30 years of creditable service, or if a
32 ~~fireman, he professional firefighter, the member shall have attained the~~
33 ~~age of 55 years and have at least five years of creditable service. completed~~
34 at least 25 years of creditable service provided that the last five years of
35 creditable service is as a professional firefighter.
- 36 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 37 (3) Repealed by Session Laws 1971, c. 325, s. 12.
- 38 (4) Any member who was in service October 8, 1981, who had attained 60
39 years of age, may retire upon written application to the Board of
40 Trustees setting forth at what time, as of the first day of a calendar
41 month, not less than one day nor more than 90 days subsequent to the
42 execution and filing thereof, he desires to be retired.

- 1 (5) Any member who is a law enforcement ~~officer~~, officer or professional
2 firefighter, and who attains age 50 and completes 15 or more years of
3 creditable service in this capacity or who attains age 55 and completes
4 five or more years of creditable service in this capacity, may retire upon
5 written application to the Board of Trustees setting forth at what time, as
6 of the first day of a calendar month, not less than one day nor more than
7 90 days subsequent to the execution and filing thereof, ~~he~~ the member
8 desires to be retired; provided, also, any member who has met the
9 conditions required by this ~~subdivision~~ section but does not retire, and
10 later becomes an employee other than as a law enforcement ~~officer~~,
11 officer or professional firefighter, continues to have the right to
12 commence retirement.

13 Section 4. G.S. 128-27 is amended by adding a new subsection to read:

14 "(b16) Service Retirement Allowance of Professional Firefighters Retiring on or
15 After July 1, 1997. – Upon retirement from service, in accordance with subsection (a) of
16 this section, on or after July 1, 1997, a member who is a professional firefighter or an
17 eligible former professional firefighter shall receive the following service retirement
18 allowance:

- 19 (1) If the member's service retirement date occurs on or after the member's
20 55th birthday, and completion of five years of creditable service as a
21 professional firefighter, or after the completion of 25 years of creditable
22 service, provided that the last five years of creditable service are as a
23 professional firefighter, the allowance shall be equal to the sum of:
24 a. One and seventy-two hundredths percent (1.72%) of the
25 member's average final compensation, multiplied by the number
26 of years of creditable service earned by the member in service
27 other than as a professional firefighter and for service as a
28 professional firefighter earned prior to July 1, 1987, plus
29 b. Two and fifty hundredths percent (2.50%) of the member's
30 average final compensation, multiplied by the number of years of
31 creditable service earned as a professional firefighter on or after
32 July 1, 1987.
- 33 (2) If the member's service retirement date occurs after the member's 50th
34 birthday and before the member's 55th birthday with 15 or more years
35 of creditable service as a professional firefighter and prior to completion
36 of 25 years of creditable service, the member's retirement allowance
37 shall be equal to the greater of:
38 a. The service retirement allowance payable under G.S. 128-
39 27(b16)(1) reduced by one-third of one percent (1/3 of 1%)
40 thereof for each month by which his retirement date precedes the
41 first day of the month coincident with or next following the
42 month the member would have attained his 55th birthday; or

1 b. The service retirement allowance as computed under G.S. 128-
2 27(b16)(1) reduced by five percent (5%) times the difference
3 between 25 years and the member's creditable service at
4 retirement."

5 Section 5. G.S. 128-30(d) is amended by adding a new subdivision to read:

6 "(10) Notwithstanding the foregoing provisions of this subsection, beginning
7 with the December 31, 1996, valuation, the actuary shall determine an
8 additional 'accrued liability contribution' on account of each employer's
9 professional firefighters. This contribution shall be that percentage of
10 the professional firefighters' compensation necessary to liquidate the
11 'existing unfunded accrued liability' over a period of years to be
12 determined by the Board of Trustees. The 'existing unfunded accrued
13 liability' for each employer shall be equal to the accrued liability for
14 additional benefits payable to each employer's professional firefighters
15 who are members of the Retirement System on June 30, 1997. The
16 'accrued liability contribution' determined on the basis of this
17 subdivision shall be added to that determined under subdivisions (3) and
18 (9) of this subsection and shall be included in the total amount payable
19 under subdivision (5) of this subsection."

20 Section 6. This act becomes effective July 1, 1997, and applies to persons
21 retiring on or after that date.