

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH70272-LL-204 (3/24)

Short Title: Fire and Rescue Workers' Retirement.

(Public)

Sponsors: Representative Holliman.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE BENEFITS FOR CAREER FIREFIGHTERS AND CAREER
3 RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE LOCAL
4 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 128-21 is amended by adding two new subdivisions to read:

7 "(7b) "Career firefighter" means a person: (i) who is a full-time paid employee of
8 an employer that participates in the Local Governmental Employees'
9 Retirement System and maintains a fire department certified by the North
10 Carolina Department of Insurance, and (ii) who is actively serving in a
11 position with assigned primary duties and responsibilities for the prevention,
12 detection, and suppression of fire.

13 (7c) "Career rescue squad worker" means a person: (i) who is a full-time paid
14 employee of an employer that participates in the Local Governmental
15 Employees' Retirement System and maintains a rescue squad or emergency
16 medical services team certified by the North Carolina Department of
17 Insurance or the Department of Health and Human Services, and (ii) who is
18 actively serving in a position with assigned primary duties and
19 responsibilities for the alleviation of human suffering and assistance to
20 persons who are in difficulty, who are injured, or who become suddenly ill,
21 by providing proper and efficient care or emergency medical services."

22 **SECTION 2.** G.S. 128-24(5) reads as rewritten:

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

26 a. Notwithstanding any other provision of this Chapter, any member
27 who separates from service prior to the attainment of the age of 60
28 years for any reason other than death or retirement for disability as
29 provided in G.S. 128-27(c), after completing 15 or more years of
30 creditable service, and who leaves his total accumulated
31 contributions in said System shall have the right to retire on a
32 deferred retirement allowance upon attaining the age of 60 years;
33 provided that such member may retire only upon written application
34 to the Board of Trustees setting forth at what time, not less than one
35 day nor more than 90 days subsequent to the execution and filing



thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated requirement of 12 or more years of creditable service shall be reduced to five or more years of creditable service. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or eligible former law enforcement officer.

b. In lieu of the benefits provided in paragraph a of this subdivision, 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 20 or more years of creditable service, and who leaves his total accumulated contributions in said System may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement ~~officer-officer,~~ career firefighter, or career rescue squad worker 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

1 calendar month, not less than one day nor more than 90 days
2 subsequent to the execution and filing thereof, he desires to
3 commence retirement. The deferred early retirement allowance shall
4 be computed in accordance with the service retirement provisions of
5 this Article pertaining to law enforcement ~~officers~~; officers, career
6 firefighters, or career rescue squad workers.

7 b2. In lieu of the benefits provided in paragraphs a and b of this
8 subdivision, any member who is a law enforcement ~~officer~~-officer,
9 career firefighter, or career rescue squad worker at the time of
10 separation from service prior to the attainment of the age of 55 years,
11 for any reason other than death or disability as provided in this
12 Article, after completing five or more years of creditable service in
13 this capacity immediately prior to separation from service, and who
14 leaves his total accumulated contributions in this System may elect to
15 retire on a deferred service retirement allowance upon attaining the
16 age of 55 years or at any time thereafter; provided, that the member
17 may commence retirement only upon written application to the
18 Board of Trustees setting forth at what time, as of the first day of a
19 calendar month not less than one day nor more than 90 days
20 subsequent to the execution and filing thereof, he desires to
21 commence retirement. The deferred service retirement allowance
22 shall be computed in accordance with the service retirement
23 provisions of this Article pertaining to law enforcement ~~officers~~-
24 officers, career firefighters, or career rescue squad workers.

25 b3. Deferred retirement allowance of members retiring on or after July 1,
26 1995. – In lieu of the benefits provided in paragraphs a. and b. of this
27 subdivision, any member who separates from service prior to
28 attainment of age 60 years, after completing 20 or more years of
29 creditable service, and who leaves his total accumulated
30 contributions in said System, may elect to retire on a deferred
31 retirement allowance upon attaining the age of 50 years or any time
32 thereafter; provided that such member may so retire only upon
33 written application to the Board of Trustees setting forth at what
34 time, not less than one day nor more than 90 days subsequent to the
35 execution and filing thereof, he desires to be retired. Such deferred
36 retirement allowance shall be computed in accordance with the
37 service retirement provisions of this Article pertaining to a member
38 who is not a law enforcement ~~officer~~ ~~or~~ officer, an eligible former
39 law enforcement ~~officer~~; officer, a career firefighter, an eligible
40 former career firefighter, a career rescue squad worker, or an eligible
41 former career rescue squad worker.

42 c. Should a beneficiary who retired on an early or service retirement
43 allowance be reemployed by, or otherwise engaged to perform
44 services for, an employer participating in the Retirement System on a
45 part-time, temporary, interim, or on fee-for-service basis, whether
46 contractual or otherwise, and if such beneficiary earns an amount
47 during the 12-month period immediately following the effective date
48 of retirement or in any calendar year which exceeds fifty percent
49 (50%) of the reported compensation, excluding terminal payments,
50 during the 12 months of service preceding the effective date of
51 retirement, or twenty thousand dollars (\$20,000), whichever is

1 greater, as hereinafter indexed, then the retirement allowance shall be
2 suspended as of the first day of the month following the month in
3 which the reemployment earnings exceed the amount above, for the
4 balance of the calendar year, except when the reemployment earnings
5 exceed the amount above in the month of December, in which case
6 the retirement allowance shall not be suspended. The retirement
7 allowance of the beneficiary shall be reinstated as of January 1 of
8 each year following suspension. The amount that may be earned
9 before suspension shall be increased on January 1 of each year by the
10 ratio of the Consumer Price Index to the Index one year earlier,
11 calculated to the nearest tenth of a percent (1/10 of 1%).

- 12 d. Should a beneficiary who retired on an early or service retirement
13 allowance be restored to service as an employee, then the retirement
14 allowance shall cease as of the first day of the month following the
15 month in which the beneficiary is restored to service and the
16 beneficiary shall become a member of the Retirement System and
17 shall contribute thereafter as allowed by law at the uniform
18 contribution payable by all members.

19 Upon his subsequent retirement, he shall be paid a retirement
20 allowance determined as follows:

- 21 1. For a member who earns at least three years' membership
22 service after restoration to service, the retirement allowance
23 shall be computed on the basis of his compensation and
24 service before and after the period of prior retirement without
25 restriction; provided, that if the prior allowance was based on
26 a social security leveling payment option, the allowance shall
27 be adjusted actuarially for the difference between the amount
28 received under the optional payment and what would have
29 been paid if the retirement allowance had been paid without
30 optional modification.
- 31 2. For a member who does not earn three years' membership
32 service after restoration to service, the retirement allowance
33 shall be equal to the sum of the retirement allowance to which
34 he would have been entitled had he not been restored to
35 service, without modification of the election of an optional
36 allowance previously made, and the retirement allowance that
37 results from service earned since being restored to service;
38 provided, that if the prior retirement allowance was based on
39 a social security leveling payment option, the prior allowance
40 shall be adjusted actuarially for the difference between the
41 amount that would have been paid for each month had the
42 payment not been suspended and what would have been paid
43 if the retirement allowance had been paid without optional
44 modification."

45 **SECTION 3.** G.S. 128-27(a) reads as rewritten:

46 "(a) Service Retirement Benefits. –

- 47 (1) Any member may retire upon written application to the Board of Trustees
48 setting forth at what time, as of the first day of a calendar month, not less
49 than one day nor more than 90 days subsequent to the execution and filing
50 thereof, he desires to be retired: Provided, that the said member at the time
51 so specified for his retirement shall have attained the age of 60 years and

1 have at least five years of creditable service or shall have completed 30 years
2 of creditable service, or if a ~~fireman, he~~ career firefighter or career rescue
3 squad worker, the member shall have attained the age of 55 years and have
4 at least five years of creditable ~~service,~~ service in that capacity.

5 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

6 (3) Repealed by Session Laws 1971, c. 325, s. 12.

7 (4) Any member who was in service October 8, 1981, who had attained 60 years
8 of age, may retire upon written application to the Board of Trustees setting
9 forth at what time, as of the first day of a calendar month, not less than one
10 day nor more than 90 days subsequent to the execution and filing thereof, he
11 desires to be retired.

12 (5) Any member who is a law enforcement officer, career firefighter, or career
13 rescue squad worker and who attains age 50 and completes 15 or more years
14 of creditable service in this capacity or who attains age 55 and completes
15 five or more years of creditable service in this capacity, may retire upon
16 written application to the Board of Trustees setting forth at what time, as of
17 the first day of a calendar month, not less than one day nor more than 90
18 days subsequent to the execution and filing thereof, ~~he~~ the member desires to
19 be retired; provided, also, any member who has met the conditions required
20 by this subdivision but does not retire, and later becomes an employee other
21 than as a law enforcement officer, career firefighter, or career rescue squad
22 worker continues to have the right to commence retirement."

23 **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

24 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003-2003,~~
25 but Before July 1, 2007. – Upon retirement from service in accordance with subsection (a) or
26 (a1) above, on or after July 1, 2003, but before July 1, 2007, a member shall receive the
27 following service retirement allowance:

28 (1) A member who is a law enforcement officer or an eligible former law
29 enforcement officer shall receive a service retirement allowance computed
30 as follows:

31 a. If the member's service retirement date occurs on or after his 55th
32 birthday and completion of five years of creditable service as a law
33 enforcement officer, or after the completion of 30 years of creditable
34 service, the allowance shall be equal to one and eighty-five
35 hundredths percent (1.85%) of his average final compensation,
36 multiplied by the number of years of his creditable service.

37 b. If the member's service retirement date occurs on or after his 50th
38 birthday and before his 55th birthday with 15 or more years of
39 creditable service as a law enforcement officer and prior to the
40 completion of 30 years of creditable service, his retirement allowance
41 shall be equal to the greater of:

42 1. The service retirement allowance payable under
43 G.S. 128-27(b21)(1)a. reduced by one-third of one percent
44 (1/3 of 1%) thereof for each month by which his retirement
45 date precedes the first day of the month coincident with or
46 next following the month the member would have attained his
47 55th birthday;

48 2. The service retirement allowance as computed under
49 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the
50 difference between 30 years and his creditable service at
51 retirement.

- 1 (2) A member who is not a law enforcement officer or an eligible former law
2 enforcement officer shall receive a service retirement allowance computed
3 as follows:
- 4 a. If the member's service retirement date occurs on or after his 65th
5 birthday upon the completion of five years of creditable service or
6 after the completion of 30 years of creditable service or on or after
7 his 60th birthday upon the completion of 25 years of creditable
8 service, the allowance shall be equal to one and eighty-five
9 hundredths percent (1.85%) of average final compensation,
10 multiplied by the number of years of creditable service.
- 11 b. If the member's service retirement date occurs after his 60th birthday
12 and before his 65th birthday and prior to his completion of 25 years
13 or more of creditable service, his retirement allowance shall be
14 computed as in G.S. 128-27(b21)(2)a. but shall be reduced by
15 one-quarter of one percent (1/4 of 1%) thereof for each month by
16 which his retirement date precedes the first day of the month
17 coincident with or next following his 65th birthday.
- 18 c. If the member's early service retirement date occurs on or after his
19 50th birthday and before his 60th birthday and after completion of 20
20 years of creditable service but prior to the completion of 30 years of
21 creditable service, his early service retirement allowance shall be
22 equal to the greater of:
- 23 1. The service retirement allowance as computed under G.S.
24 128-27(b21)(2)a. but reduced by the sum of five-twelfths of
25 one percent (5/12 of 1%) thereof for each month by which his
26 retirement date precedes the first day of the month coincident
27 with or next following the month the member would have
28 attained his 60th birthday, plus one-quarter of one percent
29 (1/4 of 1%) thereof for each month by which his 60th
30 birthday precedes the first day of the month coincident with
31 or next following his 65th birthday; or
- 32 2. The service retirement allowance as computed under G.S.
33 128-27(b21)(2)a. reduced by five percent (5%) times the
34 difference between 30 years and his creditable service at
35 retirement; or
- 36 3. If the member's creditable service commenced prior to July 1,
37 1995, the service retirement allowance equal to the actuarial
38 equivalent of the allowance payable at the age of 60 years as
39 computed in G.S. 128-27(b21)(2)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1965, shall not receive
42 less than the benefit provided by G.S. 128-27(b)."

43 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

44 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2007. – Upon
45 retirement from service in accordance with subsection (a) or (a1) of this section, on or after
46 July 1, 2007, a member shall receive the following service retirement allowance:

- 47 (1) A member who is a law enforcement officer, an eligible former law
48 enforcement officer, a career firefighter, an eligible former career firefighter,
49 a career rescue squad worker, or an eligible former career rescue squad
50 worker shall receive a service retirement allowance computed as follows:

- 1 a. If the member's service retirement date occurs on or after his 55th
2 birthday and completion of five years of creditable service as a law
3 enforcement officer, career firefighter, or a career rescue squad
4 worker, or after the completion of 30 years of creditable service, the
5 allowance shall be equal to one and eighty-five hundredths percent
6 (1.85%) of his average final compensation, multiplied by the number
7 of years of his creditable service.
- 8 b. If the member's service retirement date occurs on or after his 50th
9 birthday and before his 55th birthday with 15 or more years of
10 creditable service as a law enforcement officer, career firefighter, or
11 career rescue squad worker and prior to the completion of 30 years of
12 creditable service, his retirement allowance shall be equal to the
13 greater of:
- 14 1. The service retirement allowance payable under G.S.
15 128-27(b22)(1)a. reduced by one-third of one percent (1/3 of
16 1%) thereof for each month by which his retirement date
17 precedes the first day of the month coincident with or next
18 following the month the member would have attained his
19 55th birthday;
- 20 2. The service retirement allowance as computed under G.S.
21 128-27(b22)(1)a. reduced by five percent (5%) times the
22 difference between 30 years and his creditable service at
23 retirement.
- 24 (2) A member who is not a law enforcement officer, an eligible former law
25 enforcement officer, a career firefighter, an eligible former career firefighter,
26 a career rescue squad worker, or an eligible former career rescue squad
27 worker shall receive a service retirement allowance computed as follows:
- 28 a. If the member's service retirement date occurs on or after his 65th
29 birthday upon the completion of five years of creditable service or
30 after the completion of 30 years of creditable service or on or after
31 his 60th birthday upon the completion of 25 years of creditable
32 service, the allowance shall be equal to one and eighty-five
33 hundredths percent (1.85%) of average final compensation,
34 multiplied by the number of years of creditable service.
- 35 b. If the member's service retirement date occurs after his 60th birthday
36 and before his 65th birthday and prior to his completion of 25 years
37 or more of creditable service, his retirement allowance shall be
38 computed as in G.S. 128-27(b22)(2)a. but shall be reduced by
39 one-quarter of one percent (1/4 of 1%) thereof for each month by
40 which his retirement date precedes the first day of the month
41 coincident with or next following his 65th birthday.
- 42 c. If the member's early service retirement date occurs on or after his
43 50th birthday and before his 60th birthday and after completion of 20
44 years of creditable service but prior to the completion of 30 years of
45 creditable service, his early service retirement allowance shall be
46 equal to the greater of:
- 47 1. The service retirement allowance as computed under G.S.
48 128-27(b22)(2)a. but reduced by the sum of five-twelfths of
49 one percent (5/12 of 1%) thereof for each month by which his
50 retirement date precedes the first day of the month coincident
51 with or next following the month the member would have

