

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 411

Short Title: Amend Survivor's Alternate Benefit. (Public)

Sponsors: Senators Brunstetter; Boseman, Brown, East, Garrou, Jones, Snow, Stein, Stevens, and Tillman.

Referred to: Pensions & Retirement & Aging.

March 5, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROVISION FOR THE SURVIVOR'S ALTERNATE BENEFIT
3 FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM AND THE LOCAL GOVERNMENTAL RETIREMENT SYSTEM TO
5 PROVIDE A BENEFIT FOR SURVIVORS OF LAW ENFORCEMENT OFFICERS
6 KILLED IN THE LINE OF DUTY PRIOR TO THE COMPLETION OF FIFTEEN
7 YEARS OF SERVICE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 135-5 (m) reads as rewritten:

10 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal
11 beneficiary designated to receive a return of accumulated contributions shall have the right to
12 elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of
13 subsection (g) above computed by assuming that the member had retired on the first day of the
14 month following the date of his death, provided that the following conditions apply:

- 15 (1) a. The member had attained such age and/or creditable service to be
16 eligible to commence retirement with an early or service retirement
17 allowance,
18 b. The member had obtained 20 years of creditable service in which
19 case the retirement allowance shall be computed in accordance with
20 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
21 requirement of obtaining age 50, or
22 b1. A law enforcement officer who has obtained 15 years of service as a
23 law enforcement officer and is killed in the line of duty, in which
24 case the retirement allowance shall be computed in accordance with
25 G.S. 135-5(b19)(1)b., notwithstanding the requirement of obtaining
26 age 50, or
27 c. The member had not commenced to receive a retirement allowance
28 as provided under this Chapter.
29 (2) The member had designated as the principal beneficiary to receive a return
30 of his accumulated contributions one and only one person who was living at
31 the time of his death.
32 (3) The member had not instructed the Board of Trustees in writing that he did
33 not wish the provisions of this subsection to apply.

34 For the purpose of this benefit, a member is considered to be in service at the date of his
35 death if his death occurs within 180 days from the last day of his actual service. The last day of
36 actual service shall be determined as provided in subsection (1) of this section. Upon the death



1 of a member in service, the surviving spouse may make all purchases for creditable service as
2 provided for under this Chapter for which the member had made application in writing prior to
3 the date of death, provided that the date of death occurred prior to or within 60 days after
4 notification of the cost to make the purchase. The term "in service" as used in this subsection
5 includes a member in receipt of a benefit under the Disability Income Plan as provided in
6 Article 6 of this Chapter.

7 Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation
8 during the period for which the member would have otherwise been eligible to receive
9 short-term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the
10 last day of the member's actual service but on or before the date the benefits as provided in
11 G.S. 135-105 would have ended, shall be considered in service at the time of the member's
12 death for the purpose of this benefit."

13 **SECTION 2.** G.S. 128-27(m) reads as rewritten:

14 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal
15 beneficiary designated to receive a return of accumulated contributions shall have the right to
16 elect to receive in lieu thereof the reduced retirement allowance provided by Option two of
17 subsection (g) above computed by assuming that the member had retired on the first day of the
18 month following the date of his death, provided that all three of the following conditions apply:

- 19 (1) a. The member had attained such age and/or creditable service to be
20 eligible to commence retirement with an early or service retirement
21 allowance, or
22 b. The member had obtained 20 years of creditable service in which
23 case the retirement allowance shall be computed in accordance with
24 G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., notwithstanding the
25 requirement of obtaining age 50, ~~or~~
26 b1. A law enforcement officer who has obtained 15 years of service as a
27 law enforcement officer and is killed in the line of duty, in which
28 case the retirement allowance shall be computed in accordance with
29 G.S. 128-27(b21)(1)b., notwithstanding the requirement of obtaining
30 age 50, or
31 c. The member had not commenced to receive a retirement allowance
32 as provided under this Chapter.
33 (2) The member had designated as the principal beneficiary to receive a return
34 of his accumulated contributions one and only one person who is living at
35 the time of his death.
36 (3) The member had not instructed the Board of Trustees in writing that he did
37 not wish the provisions of this subsection apply.

38 For the purpose of this benefit, a member is considered to be in service at the date of his
39 death if his death occurs within 180 days from the last day of his actual service. The last day of
40 actual service shall be determined as provided in subsection (l) of this section. Upon the death
41 of a member in service, the surviving spouse may make all purchases for creditable service as
42 provided for under this Chapter for which the member had made application in writing prior to
43 the date of death, provided that the date of death occurred prior to or within 60 days after
44 notification of the cost to make the purchase."

45 **SECTION 3.** This act is effective when it becomes law, and applies to
46 beneficiaries of law enforcement officers killed in the line of duty on and after January 1, 2007.