

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS15142-LL-66B (01/07)

Short Title: State Retirement Changes.

(Public)

Sponsors: Senators Apodaca and Brunstetter (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE RETIREMENT AGE FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, TO AMEND THE DEFINITION OF AVERAGE FINAL COMPENSATION FOR PURPOSES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND TO ESTABLISH A SPECIAL COMMISSION TO STUDY RETIREMENT AND HEALTH BENEFITS FOR TEACHERS AND STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-3(8) reads as rewritten:

"(8) The provisions of this subsection (8) shall apply to any member whose membership is terminated on or after July 1, 1963 and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

- a. Notwithstanding any other provision of this Chapter, any member who became a member prior to August 1, 2011, and 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. 135-5(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90~~120 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a member who so separates from service on or after July 1, 1967, or whose account is active on July 1, 1967, or has not withdrawn his contributions, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further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



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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 an eligible former law enforcement officer. Notwithstanding the foregoing, any member whose services as a teacher or employee are terminated for any reason other than retirement, who becomes employed by a nonprofit, nonsectarian private school in North Carolina below the college level within one year after such teacher or employee has ceased to be a teacher or employee, may elect to leave his total accumulated contributions in the Teachers' and State Employees' Retirement System during the period he is in the employment of such employer; provided that he files notice thereof in writing with the Board of Trustees of the Retirement System within five years after separation from service as a public school teacher or State employee; such member shall be deemed to have met the requirements of the above provisions of this subdivision upon attainment of age 60 while in such employment provided that he is otherwise vested.

b. In lieu of the benefits provided in paragraph a of this subdivision (8), any member who became a member prior to August 1, 2011, and 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. 135-5(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 electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90-120~~ 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 became a member prior to August 1, 2011, and who is a law-enforcement officer 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

1 immediately prior to separation from service, and who leaves his
2 total accumulated contributions in this System may elect to retire on
3 a deferred early retirement allowance upon attaining the age of 50
4 years or at any time thereafter; provided, that the member may
5 commence retirement only upon electronic submission or written
6 application to the Board of Trustees setting forth at what time, as of
7 the first day of a calendar month, not less than one day nor more than
8 ~~90-120~~ days subsequent to the execution and filing thereof, he desires
9 to commence retirement. The deferred early retirement allowance
10 shall be computed in accordance with the service retirement
11 provisions of this Article pertaining to law-enforcement officers.

12 b2. In lieu of the benefits provided in paragraphs a and b of this
13 subdivision, any member who became a member prior to August 1,
14 2011, and who is a law-enforcement officer at the time of separation
15 from service prior to the attainment of the age of 55 years, for any
16 reason other than death or disability as provided in this Article, after
17 completing five or more years of creditable service in this capacity
18 immediately prior to separation from service, and who leaves his
19 total accumulated contributions in this System may elect to retire on
20 a deferred early retirement allowance upon attaining the age of 55
21 years or at any time thereafter; provided, that the member may
22 commence retirement only upon electronic submission or written
23 application to the Board of Trustees setting forth at what time, as of
24 the first day of a calendar month not less than one day nor more than
25 ~~90-120~~ days subsequent to the execution and filing thereof, he desires
26 to commence retirement. The deferred early retirement allowance
27 shall be computed in accordance with the service retirement
28 provisions of this Article pertaining to law-enforcement officers.

29 b3. Vested deferred retirement allowance of members retiring on or after
30 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
31 of this subdivision, any member who became a member prior to
32 August 1, 2011, and who separates from service prior to attainment
33 of age 60 years, after completing 20 or more years of creditable
34 service, and who leaves his total accumulated contributions in said
35 System, may elect to retire on a deferred retirement allowance upon
36 attaining the age of 50 years or any time thereafter; provided that
37 such member may so retire only upon electronic submission or
38 written application to the Board of Trustees setting forth at what
39 time, not less than one day nor more than ~~90-120~~ days subsequent to
40 the execution and filing thereof, he desires to be retired. Such
41 deferred retirement allowance shall be computed in accordance with
42 the service retirement provisions of this Article pertaining to a
43 member who is not a law enforcement officer or an eligible former
44 law enforcement officer.

45"

46 **SECTION 2.** G.S. 135-5(a) reads as rewritten:

47 "(a) Service Retirement Benefits. –

48 (1) Any member who became a member prior to August 1, 2011, may retire
49 upon electronic submission or written application to the Board of Trustees
50 setting forth at what time, as of the first day of a calendar month, not less
51 than one day nor more than 120 days subsequent to the execution of and

1 filing thereof, he desires to be retired: Provided, that the said member at the
2 time so specified for his retirement shall have attained the age of 60 years
3 and have at least five years of membership service or shall have completed
4 30 years of creditable service.

5 (1a) Any member who became a member on or after August 1, 2011, and who
6 attains age 60 and has completed 30 years of creditable service or who
7 attains age 70 and has completed 10 years of membership service may retire
8 on an unreduced retirement benefit upon electronic submission or written
9 application to the Board of Trustees setting forth at what time, as of the first
10 day of a calendar month, not less than one day nor more than 120 days
11 subsequent to the execution of and filing thereof, the member desires to be
12 retired. At the time specified for retirement, the member may retire on a
13 reduced benefit upon attaining age 60 with 20 years of service or age 65 with
14 10 years of service.

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

16 (3) Any member who was in service October 8, 1981, who had attained 60 years
17 of age, may retire upon electronic submission or written application to the
18 Board of Trustees setting forth at what time, as of the first day of a calendar
19 month, not less than one day nor more than 120 days subsequent to the
20 execution and filing thereof, he desires to be retired.

21 (4) Any member who is a law-enforcement officer, and who attains age 50 and
22 completes 15 or more years of creditable service in this capacity or who
23 attains age 55 and completes five or more years of creditable service in this
24 capacity, may retire upon electronic submission or written application to the
25 Board of Trustees setting forth at what time, as of the first day of a calendar
26 month, not less than one day nor more than 120 days subsequent to the
27 execution and filing thereof, he desires to be retired; Provided, also, any
28 member who has met the conditions herein required but does not retire, and
29 later becomes a teacher or an employee other than as a law-enforcement
30 officer shall continue to have the right to commence retirement.

31 (4a) Any member who has less than five years of membership service on July 31,
32 2011, who is a law enforcement officer and who attains age 55 and has
33 completed 30 years of creditable service or who attains age 60 and
34 completes 10 or more years of creditable service in this capacity may retire
35 on an unreduced retirement benefit upon electronic submission or written
36 application to the Board of Trustees setting forth at what time, as of the first
37 day of a calendar month, not less than one day nor more than 120 days
38 subsequent to the execution and filing thereof, the member desires to be
39 retired; provided, also, any member who has met the conditions herein
40 required but does not retire and later becomes a teacher or an employee other
41 than as a law enforcement officer shall continue to have the right to
42 commence retirement.

43 (5) Any member who is eligible for and is being paid a benefit under the
44 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
45 deemed a member in service and may not retire under the provisions of this
46 section. Any member who has made electronic submission or written
47 application for long-term or extended short-term benefits under the
48 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
49 who has been rejected by the Plan's Medical Board for a long-term or
50 extended short-term benefit shall have 90 days from the date of notification
51 of the rejection to convert his application to an early or service retirement

1 application, provided that the member meets the eligibility requirements,
2 effective the first day of the month following the month in which short-term
3 disability benefits ended or the first day of the month following the month in
4 which any salary continuation as may be provided in G.S. 135-104 ended,
5 whichever is later."

6 **SECTION 3.** G.S. 135-5(a1) reads as rewritten:

7 "(a1) Early Service Retirement Benefits. – Any member who became a member prior to
8 August 1, 2011, may retire and receive a reduced retirement allowance upon electronic
9 submission or written application to the Board of Trustees setting forth at what time, as of the
10 first day of a calendar month, not less than one day nor more than 120 days subsequent to the
11 execution of and filing thereof, he desires to be retired: Provided, that the said member at the
12 time so specified for his retirement shall have attained the age of 50 years and have at least 20
13 years of creditable service."

14 **SECTION 4.** G.S. 135-5 is amended by adding a new subsection to read:

15 "(a2) Early Service Retirement Benefits. – Any member who became a member on or
16 after August 1, 2011, may retire and receive a reduced retirement allowance upon electronic
17 submission or written application to the Board of Trustees setting forth at what time, as of the
18 first day of a calendar month, not less than one day nor more than 120 days subsequent to the
19 execution of and filing thereof, the member desires to be retired: provided, that the said
20 member at the time so specified for the member's retirement shall have attained the age of 60
21 years and have at least 20 years of creditable service."

22 **SECTION 5.** G.S. 135-5(b19) reads as rewritten:

23 "(b19) Service Retirement Allowance of Members Who Became a Member Prior to
24 August 1, 2011, Retiring on or After July 1, 2002. – Upon retirement from service in
25 accordance with subdivision (a)(1), (a)(4), or subsection (a) or (a1) above, of this section, on or
26 after July 1, 2002, a member shall receive the following service retirement allowance:

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

30 a. If the member's service retirement date occurs on or after his 55th
31 birthday, and completion of five years of creditable service as a law
32 enforcement officer, or after the completion of 30 years of creditable
33 service, the allowance shall be equal to one and eighty-two
34 hundredths percent (1.82%) of his average final compensation,
35 multiplied by the number of years of his creditable service.

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

41 1. The service retirement allowance payable under
42 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
43 of 1%) thereof for each month by which his retirement date
44 precedes the first day of the month coincident with or next
45 following the month the member would have attained his
46 55th birthday; or

47 2. The service retirement allowance as computed under
48 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
49 difference between 30 years and his creditable service at
50 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 membership 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-two
9 hundredths percent (1.82%) of his 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. 135-5(b19)(2)a. but shall be reduced by
15 one-quarter of one percent ($\frac{1}{4}$ 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
24 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
25 of one percent ($\frac{5}{12}$ of 1%) thereof for each month by which
26 his retirement date precedes the first day of the month
27 coincident with or next following the month the member
28 would have attained his 60th birthday, plus one-quarter of one
29 percent ($\frac{1}{4}$ 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
33 G.S. 135-5(b19)(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 1994, 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. 135-5(b19)(2)b.

40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1963, shall not receive
42 less than the benefit provided by G.S. 135-5(b)."

43 **SECTION 6.** G.S. 135-5 is amended by adding a new subsection to read:

44 "(b20) Service Retirement Allowance of Members Who Became Members On or After
45 August 1, 2011. – Upon retirement from service in accordance with subdivision (a)(1), (a)(4),
46 or subsection (a2) of this section, a member shall receive the following service retirement
47 allowance:

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

- 1 a. If the member's service retirement date occurs on or after his 60th
2 birthday, and completion of 10 years of creditable service as a law
3 enforcement officer, or on or after his 55th birthday and after the
4 completion of 30 years of creditable service, the allowance shall be
5 equal to one and eighty-two hundredths percent (1.82%) of his
6 average final compensation, multiplied by the number of years of his
7 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 20 or more years of
10 creditable service as a law enforcement officer and prior to the
11 completion of 30 years of creditable service, his retirement allowance
12 shall be equal the service retirement allowance payable under
13 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%)
14 thereof for each month by which his retirement date precedes the first
15 day of the month coincident with or next following the month the
16 member would have attained his 60th birthday.
- 17 (2) A member who is not a law enforcement officer or an eligible former law
18 enforcement officer shall receive a service retirement allowance computed
19 as follows:
- 20 a. If the member's service retirement date occurs on or after the
21 member's 70th birthday upon the completion of 10 years of
22 membership service or after the member's 60th birthday upon the
23 completion of 30 years of creditable service, the allowance shall be
24 equal to one and eighty-two hundredths percent (1.82%) of the
25 member's average final compensation, multiplied by the number of
26 years of creditable service.
- 27 b. If the member's service retirement date occurs after the member's
28 65th birthday and before the member's 70th birthday and prior to the
29 completion of 10 years or more of creditable service, the member's
30 retirement allowance shall be computed as in G.S. 135-5(b20)(2)a.
31 but shall be reduced by three percent (3%) per year or prorated by the
32 month for each year by which the member's retirement date precedes
33 the first day of the month coincident with or next following the
34 member's 70th birthday.
- 35 c. If the member's early service retirement date occurs on or after the
36 member's 60th birthday and before the member's 70th birthday and
37 after completion of 20 years of creditable service, the member's early
38 service retirement allowance shall be computed as in
39 G.S. 135-5(b20)(2)a. but shall be the actuarial equivalent of the
40 allowance payable at age 70."

41 **SECTION 7.** G.S. 135-5(m) reads as rewritten:

42 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, who became
43 a member prior to August 1, 2011, the principal beneficiary designated to receive a return of
44 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
45 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that
46 the member had retired on the first day of the month following the date of his death, provided
47 that the following conditions apply:

- 48 (1) a. The member had attained such age and/or creditable service to be
49 eligible to commence retirement with an early or service retirement
50 allowance,

- 1 b. The member had obtained 20 years of creditable service in which
2 case the retirement allowance shall be computed in accordance with
3 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
4 requirement of obtaining age 50,
5 b1. The member was a law enforcement officer who had obtained 15
6 years of service as a law enforcement officer and was killed in the
7 line of duty, in which case the retirement allowance shall be
8 computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding
9 the requirement of obtaining age 50, or
10 c. The member had not commenced to receive a retirement allowance
11 as provided under this Chapter.
12 (2) The member had designated as the principal beneficiary to receive a return
13 of his accumulated contributions one and only one person who was living at
14 the time of his death.
15 (3) The member had not instructed the Board of Trustees in writing that he did
16 not wish the provisions of this subsection to apply.

17 For the purpose of this benefit, a member is considered to be in service at
18 the date of his death if his death occurs within 180 days from the last day of
19 his actual service. The last day of actual service shall be determined as
20 provided in subsection (l) of this section. Upon the death of a member in
21 service, the surviving spouse may make all purchases for creditable service
22 as provided for under this Chapter for which the member had made
23 application in writing prior to the date of death, provided that the date of
24 death occurred prior to or within 60 days after notification of the cost to
25 make the purchase. The term "in service" as used in this subsection includes
26 a member in receipt of a benefit under the Disability Income Plan as
27 provided in Article 6 of this Chapter.

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

35 For the purpose of calculating this benefit any terminal payouts made
36 after the date of death that meet the definition of compensation shall be
37 credited to the month prior to the month of death. These terminal payouts do
38 not include salary or wages paid for work performed during the month of
39 death."

40 **SECTION 8.** G.S. 135-5 is amended by adding a new subsection to read:

41 "(m2) Survivor's Alternate Benefit. – Upon the death of a member in service who became
42 a member on or after August 1, 2011, the principal beneficiary designated to receive a return of
43 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
44 retirement allowance provided by Option 2 of subsection (g) of this section computed by
45 assuming that the member had retired on the first day of the month following the date of the
46 member's death, provided that the following conditions apply:

- 47 (1) a. The member had attained such age and/or creditable service to be
48 eligible to commence retirement with an early or service retirement
49 allowance.

- 1 b. The member had attained 20 years of creditable service, in which
2 case the retirement allowance shall be computed in accordance with
3 G.S. 135-5(b20)(2)c., and is 60 years of age.
4 c. The member was a law enforcement officer who had attained 15
5 years of service as a law enforcement officer and was killed in the
6 line of duty, in which case the retirement allowance shall be
7 computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding
8 the requirement of attaining age 55 with 20 years of service.
9 d. The member had not commenced to receive a retirement allowance
10 as provided under this Chapter.

11 (2) At the time of the member's death, one and only one person is eligible to
12 receive a return of the member's contributions.

13 (3) The member had not instructed the Board of Trustees in writing that the
14 member did not wish the provisions of this subsection to apply.

15 For the purpose of this benefit, a member is considered to be in service at
16 the date of the member's death if the member's death occurs within 180 days
17 from the last day of his actual service. The last day of actual service shall be
18 determined as provided in subdivision (1) of this subsection. Upon the death
19 of a member in service, the surviving spouse may make all purchases for
20 creditable service as provided for under this Chapter for which the member
21 had made application in writing prior to the date of death, provided that the
22 date of death occurred prior to or within 60 days after notification of the cost
23 to make the purchase. The term "in service" as used in this subsection
24 includes a member in receipt of a benefit under the Disability Income Plan
25 as provided in Article 6 of this Chapter.

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

33 For the purpose of calculating this benefit, any terminal payouts made
34 after the date of death that meet the definition of compensation shall be
35 credited to the month prior to the month of death. These terminal payouts do
36 not include salary or wages paid for work performed during the month of
37 death."

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

39 (5) "Average final compensation" shall mean (i) for members who became
40 members prior to August 1, 2011, the average annual compensation of a
41 member during the four consecutive calendar years of membership service
42 producing the highest such average; ~~average,~~ and (ii) for persons who
43 became members on or after August 1, 2011, the average annual
44 compensation of a member during the 120 consecutive calendar months of
45 membership service producing the highest such average; but shall not
46 include any compensation, as determined by the Board of Trustees, for the
47 reimbursement of expenses or payments for housing or any other allowances
48 whether or not classified as salary and wages. In the event a member is or
49 has been in receipt of a benefit under the provisions of G.S. 135-105 or
50 G.S. 135-106, the compensation used in the calculation of "average final
51 compensation" shall be the higher of compensation of the member under the

1 provisions of this Article or compensation used in calculating the payment of
2 benefits under Article 6 of this Chapter as adjusted for percentage increases
3 in the post disability benefit."

4 **SECTION 10.** G.S. 135-53(2a) reads as rewritten:

5 "(2a) "Average final compensation" shall mean (i) for members who became
6 members prior to August 1, 2011, the average annual compensation of a
7 member during the 48 consecutive calendar months of membership service
8 producing the highest such ~~average-average~~, and (ii) for persons who became
9 members on or after August 1, 2011, the average annual compensation of a
10 member during the 120 consecutive calendar months of membership service
11 producing the highest such average."

12 **SECTION 11.** G.S. 135-58(a6) reads as rewritten:

13 "(a6) Any member who became a member prior to August 1, 2011, and who retires under
14 the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member
15 has either attained the member's 65th birthday or has completed 24 years or more of creditable
16 service, shall receive an annual retirement allowance, payable monthly, which shall commence
17 on the effective date of the member's retirement and shall be continued on the first day of each
18 month thereafter during the member's lifetime, the amount of which shall be computed as the
19 sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in
20 no event shall the annual allowance payable to any member be greater than an amount which,
21 when added to the allowance, if any, to which the member is entitled under the Teachers' and
22 State Employees' Retirement System, the Legislative Retirement System, or the Local
23 Governmental Employees' Retirement System (prior in any case to any reduction for early
24 retirement or for an optional mode of payment), would total three-fourths of the member's final
25 compensation:

- 26 (1) Four and two hundredths percent (4.02%) of the member's final
27 compensation, multiplied by the number of years of creditable service
28 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
29 (2) Three and fifty-two hundredths percent (3.52%) of the member's final
30 compensation, multiplied by the number of years of creditable service
31 rendered as a judge of the superior court or as Administrative Officer of the
32 Courts;
33 (3) Three and two hundredths percent (3.02%) of the member's final
34 compensation, multiplied by the number of years of creditable service
35 rendered as a judge of the district court, district attorney, clerk of superior
36 court, public defender, or the Director of Indigent Defense Services;
37 (4) A service retirement allowance computed in accordance with the service
38 retirement provisions of Article 3 of Chapter 128 of the General Statutes
39 using an average final compensation as defined in G.S. 135-53(2a) and
40 creditable service equal to the number of years of the member's creditable
41 service that was transferred from the Local Governmental Employees'
42 Retirement System to this System as provided in G.S. 135-56; and
43 (5) A service retirement allowance computed in accordance with the service
44 retirement provisions of Article 1 of this Chapter using an average final
45 compensation as defined in G.S. 135-53(2a) and creditable service, including
46 any sick leave standing to the credit of the member, equal to the number of
47 years of the member's creditable service that was transferred from the
48 Teachers' and State Employees' Retirement System or the Legislative
49 Retirement System to this System as provided in G.S. 135-56."

50 **SECTION 12.** G.S. 135-58 is amended by adding a new subsection to read:

1 "(a7) Retirement Allowance of Members Who Became Members On or After August 1,
2 2011. – Upon retirement from service, a member shall receive an unreduced retirement benefit
3 after the member has either attained the member's 70th birthday with 10 or more years of
4 membership service or has completed 25 years or more of creditable service and has attained
5 the age of 60, or the member shall receive a reduced benefit after attaining the age of 65 with
6 10 or more years of membership service reduced by three percent (3%) per year or prorated by
7 the month for each year by which the member's retirement date precedes the first day of the
8 month coincident with or next following the member's 70th birthday. The member shall receive
9 the annual retirement allowance, payable monthly, which shall commence on the effective date
10 of the member's retirement and shall be continued on the first day of each month thereafter
11 during the member's lifetime, the amount of which shall be computed as the sum of the
12 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event
13 shall the annual allowance payable to any member be greater than an amount which, when
14 added to the allowance, if any, to which the member is entitled under the Teachers' and State
15 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental
16 Employees' Retirement System (prior in any case to any reduction for early retirement or for an
17 optional mode of payment), would total three-fourths of the member's final compensation:

- 18 (1) Four and two hundredths percent (4.02%) of the member's average final
19 compensation, multiplied by the number of years of creditable service
20 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 21 (2) Three and fifty-two hundredths percent (3.52%) of the member's average
22 final compensation, multiplied by the number of years of creditable service
23 rendered as a judge of the superior court or as Administrative Officer of the
24 Courts;
- 25 (3) Three and two hundredths percent (3.02%) of the member's average final
26 compensation, multiplied by the number of years of creditable service
27 rendered as a judge of the district court, district attorney, clerk of superior
28 court, public defender, or the Director of Indigent Defense Services;
- 29 (4) A service retirement allowance computed in accordance with the service
30 retirement provisions of Article 3 of Chapter 128 of the General Statutes
31 using an average final compensation as defined in G.S. 135-53(2a) and
32 creditable service equal to the number of years of the member's creditable
33 service that was transferred from the Local Governmental Employees'
34 Retirement System to this System as provided in G.S. 135-56; and
- 35 (5) A service retirement allowance computed in accordance with the service
36 retirement provisions of Article 1 of this Chapter using an average final
37 compensation as defined in G.S. 135-53(2a) and creditable service, including
38 any sick leave standing to the credit of the member, equal to the number of
39 years of the member's creditable service that was transferred from the
40 Teachers' and State Employees' Retirement System or the Legislative
41 Retirement System to this System as provided in G.S. 135-56."

42 **SECTION 13.** G.S. 135-57 reads as rewritten:

43 "**§ 135-57. Service retirement.**

44 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
45 2011, and who has attained his fiftieth birthday and five years of membership service may
46 retire upon electronic submission or written application to the board of trustees setting forth at
47 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
48 subsequent to the execution and filing thereof, he desires to be retired.

49 (b) Any member who is a justice or judge of the General Court of Justice shall be
50 automatically retired as of the first day of the calendar month coinciding with or next following
51 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,

1 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
2 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
3 office under the provisions of G.S. 7A-4.20.

4 (c) Any member who terminates service on or after January 1, 1974, having
5 accumulated five or more years of creditable service and having become a member prior to
6 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall
7 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
8 and the requirement of subsection (a) that the member be in service shall not apply.

9 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
10 may retire upon electronic submission or written application to the board of trustees setting
11 forth at what time, as of the first day of a calendar month, not less than one day nor more than
12 120 days subsequent to the execution and filing thereof, he desires to be retired."

13 **SECTION 14.(a)** There is established the Special Commission to Study Retirement
14 and Health Benefits for Teachers and State Employees.

15 **SECTION 14.(b)** The Commission shall be composed of 14 members as follows:

- 16 (1) The State Treasurer or the State Treasurer's designee.
- 17 (2) The Executive Administrator of the State Health Plan for Teachers and State
18 Employees.
- 19 (3) Four members appointed by the President Pro Tempore of the Senate.
- 20 (4) Four members appointed by the Speaker of the House of Representatives.
- 21 (5) Four members appointed by the Governor.

22 Vacancies on the Commission shall be filled by the appointing authority. The
23 Commission shall choose from among its membership a chair and two vice-chairs. A quorum
24 of the Commission shall be nine members.

25 The Commission, while in the discharge of its official duties, may exercise all
26 powers provided for under G.S. 120-19 and G.S. 120-19.1 through G.S. 120-19.4, including the
27 power to request all officers, agents, agencies, and departments of the State to provide any
28 information, data, or documents within their possession, ascertainable from their records, or
29 otherwise available to them, and the power to subpoena witnesses.

30 The Commission may meet at any time upon call of the chairs. The Commission
31 may meet in the Legislative Building or the Legislative Office Building. The Commission may
32 contract for professional, clerical, or consultant services as provided by G.S. 120-32.02.

33 The Legislative Services Commission, through the Legislative Services Officer,
34 shall assign professional staff to assist the Commission in its work. The House of
35 Representatives' and Senate's Directors of Legislative Assistants shall assign clerical staff to the
36 Commission, and the expenses relating to the clerical employees shall be borne by the
37 Commission. Members of the Commission shall receive subsistence and travel expenses at the
38 rates set forth in G.S. 120-3.1, 138-5, or 138-6, as appropriate.

39 **SECTION 14.(c)** The initial meeting of the Commission shall be called by the
40 State Treasurer or the State Treasurer's designee.

41 **SECTION 14.(d)** The Commission shall study retirement and health benefits for
42 teachers and State employees. As a part of its study, the Commission may examine issues
43 related to:

- 44 (1) Whether the changing demographics among State employees require
45 changes to the current defined benefit plan and the health plan.
- 46 (2) Whether there is a need to establish a normal retirement age when retirement
47 and health benefits are to begin.
- 48 (3) Whether the retirement plan should have a defined contribution component.
- 49 (4) Whether the current benefits plan serves the need to recruit and retain the
50 best teachers and State employees.

- 1 (5) Any other issues the Commission deems relevant to improvement of the
2 retirement systems and the State Health Plan.
- 3 (6) The relationship between the State Health Plan, the Teachers' and State
4 Employees' Retirement System, and the Disability Income Plan.
- 5 **SECTION 14.(e)** The Commission shall make an interim report to the 2011
6 Regular Session of the General Assembly prior to its reconvening in 2012 and shall make a
7 final report to the 2013 Regular Session of the General Assembly prior to its convening. The
8 report shall include any proposed legislation. The Commission shall terminate upon filing its
9 final report or upon the convening of the 2013 General Assembly, whichever is earlier.
- 10 **SECTION 15.** This act becomes effective August 1, 2011.