

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 687

Short Title: State Retirement Changes. (Public)

Sponsors: Senators Apodaca, Brunstetter; and Brock.

Referred to: Pensions & Retirement and Aging.

April 20, 2011

A BILL TO BE ENTITLED

1 AN ACT TO ADJUST THE RETIREMENT AGE FOR MEMBERS OF THE TEACHERS'
2 AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO BECOME MEMBERS ON
3 OR AFTER AUGUST 1, 2011, TO AMEND THE DEFINITION OF AVERAGE FINAL
4 COMPENSATION FOR PURPOSES OF THE TEACHERS' AND STATE EMPLOYEES'
5 RETIREMENT SYSTEM AND THE CONSOLIDATED JUDICIAL RETIREMENT
6 SYSTEM, AND TO ESTABLISH A SPECIAL COMMISSION TO STUDY
7 RETIREMENT AND HEALTH BENEFITS FOR TEACHERS AND STATE
8 EMPLOYEES.
9

10 The General Assembly of North Carolina enacts:

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

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

15 a. Notwithstanding any other provision of this Chapter, any member
16 who became a member prior to August 1, 2011, and who separates
17 from service prior to the attainment of the age of 60 years for any
18 reason other than death or retirement for disability as provided in
19 G.S. 135-5(c), after completing 15 or more years of creditable
20 service, and who leaves his total accumulated contributions in said
21 System shall have the right to retire on a deferred retirement
22 allowance upon attaining the age of 60 years; provided that such
23 member may retire only upon electronic submission or written
24 application to the Board of Trustees setting forth at what time, not
25 less than one day nor more than ~~90~~120 days subsequent to the
26 execution and filing thereof, he desires to be retired; and further
27 provided that in the case of a member who so separates from service
28 on or after July 1, 1967, or whose account is active on July 1, 1967,
29 or has not withdrawn his contributions, the aforesated requirement
30 of 15 or more years of creditable service shall be reduced to 12 or
31 more years of creditable service; and further provided that in the case
32 of a member who so separates from service on or after July 1, 1971,
33 or whose account is active on July 1, 1971, the aforesated
34 requirement of 12 or more years of creditable service shall be
35 reduced to five or more years of creditable service. Such deferred
36 retirement allowance shall be computed in accordance with the
37 service retirement provisions of this Article pertaining to a member



1 who is not a law enforcement officer or an eligible former law
 2 enforcement officer. Notwithstanding the foregoing, any member
 3 whose services as a teacher or employee are terminated for any
 4 reason other than retirement, who becomes employed by a nonprofit,
 5 nonsectarian private school in North Carolina below the college level
 6 within one year after such teacher or employee has ceased to be a
 7 teacher or employee, may elect to leave his total accumulated
 8 contributions in the Teachers' and State Employees' Retirement
 9 System during the period he is in the employment of such employer;
 10 provided that he files notice thereof in writing with the Board of
 11 Trustees of the Retirement System within five years after separation
 12 from service as a public school teacher or State employee; such
 13 member shall be deemed to have met the requirements of the above
 14 provisions of this subdivision upon attainment of age 60 while in
 15 such employment provided that he is otherwise vested.

16 b. In lieu of the benefits provided in paragraph a of this subdivision (8),
 17 any member who became a member prior to August 1, 2011, and
 18 who separates from service prior to the attainment of the age of 60
 19 years, for any reason other than death or retirement for disability as
 20 provided in G.S. 135-5(c), after completing 20 or more years of
 21 creditable service, and who leaves his total accumulated
 22 contributions in said System, may elect to retire on an early
 23 retirement allowance upon attaining the age of 50 years or at any
 24 time thereafter; provided that such member may so retire only upon
 25 electronic submission or written application to the Board of Trustees
 26 setting forth at what time, not less than one day nor more than ~~90~~120
 27 days subsequent to the execution and filing thereof, he desires to be
 28 retired. Such early retirement allowance so elected shall be equal to
 29 the deferred retirement allowance otherwise payable at the attainment
 30 of the age of 60 years reduced by the percentage thereof indicated
 31 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

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 44 b1. In lieu of the benefits provided in paragraphs a and b of this
 45 subdivision, any member who became a member prior to August 1,
 46 2011, and who is a law-enforcement officer at the time of separation
 47 from service prior to the attainment of the age of 50 years, for any
 48 reason other than death or disability as provided in this Article, after
 49 completing 15 or more years of creditable service in this capacity
 50 immediately prior to separation from service, and who leaves his
 51 total accumulated contributions in this System may elect to retire on

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

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

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

43"

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

45 "(a) Service Retirement Benefits. –

46 (1) Any member who became a member prior to August 1, 2011, may retire
 47 upon electronic submission or 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 120 days subsequent to the execution of and
 50 filing thereof, he desires to be retired: Provided, that the said member at the
 51 time so specified for his retirement shall have attained the age of 60 years

- 1 and have at least five years of membership service or shall have completed
2 30 years of creditable service.
- 3 (1a) Any member who became a member on or after August 1, 2011, and who
4 attains age 60 and has completed 30 years of creditable service or who
5 attains age 70 and has completed 10 years of membership service may retire
6 on an unreduced retirement benefit upon electronic submission or written
7 application to the Board of Trustees setting forth at what time, as of the first
8 day of a calendar month, not less than one day nor more than 120 days
9 subsequent to the execution of and filing thereof, the member desires to be
10 retired. At the time specified for retirement, the member may retire on a
11 reduced benefit upon attaining age 60 with 20 years of service or age 65 with
12 10 years of service.
- 13 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 14 (3) Any member who was in service October 8, 1981, who had attained 60 years
15 of age, may retire upon electronic submission or written application to the
16 Board of Trustees setting forth at what time, as of the first day of a calendar
17 month, not less than one day nor more than 120 days subsequent to the
18 execution and filing thereof, he desires to be retired.
- 19 (4) Any member who is a law-enforcement officer, and who attains age 50 and
20 completes 15 or more years of creditable service in this capacity or who
21 attains age 55 and completes five or more years of creditable service in this
22 capacity, may retire upon electronic submission or written application to the
23 Board of Trustees setting forth at what time, as of the first day of a calendar
24 month, not less than one day nor more than 120 days subsequent to the
25 execution and filing thereof, he desires to be retired; Provided, also, any
26 member who has met the conditions herein required but does not retire, and
27 later becomes a teacher or an employee other than as a law-enforcement
28 officer shall continue to have the right to commence retirement.
- 29 (4a) Any member who has less than five years of membership service on July 31,
30 2011, who is a law enforcement officer and who attains age 55 and has
31 completed 30 years of creditable service or who attains age 60 and
32 completes 10 or more years of creditable service in this capacity may retire
33 on an unreduced retirement benefit upon electronic submission or written
34 application to the Board of Trustees setting forth at what time, as of the first
35 day of a calendar month, not less than one day nor more than 120 days
36 subsequent to the execution and filing thereof, the member desires to be
37 retired; provided, also, any member who has met the conditions herein
38 required but does not retire and later becomes a teacher or an employee other
39 than as a law enforcement officer shall continue to have the right to
40 commence retirement.
- 41 (5) Any member who is eligible for and is being paid a benefit under the
42 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
43 deemed a member in service and may not retire under the provisions of this
44 section. Any member who has made electronic submission or written
45 application for long-term or extended short-term benefits under the
46 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
47 who has been rejected by the Plan's Medical Board for a long-term or
48 extended short-term benefit shall have 90 days from the date of notification
49 of the rejection to convert his application to an early or service retirement
50 application, provided that the member meets the eligibility requirements,
51 effective the first day of the month following the month in which short-term

1 disability benefits ended or the first day of the month following the month in
2 which any salary continuation as may be provided in G.S. 135-104 ended,
3 whichever is later."

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

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

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

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

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

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

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

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

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

- 39 1. The service retirement allowance payable under
40 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
41 of 1%) thereof for each month by which his retirement date
42 precedes the first day of the month coincident with or next
43 following the month the member would have attained his
44 55th birthday; or
- 45 2. The service retirement allowance as computed under
46 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
47 difference between 30 years and his creditable service at
48 retirement.

49 (2) A member who is not a law enforcement officer or an eligible former law
50 enforcement officer shall receive a service retirement allowance computed
51 as follows:

- 1 a. If the member's service retirement date occurs on or after his 65th
2 birthday upon the completion of five years of membership service or
3 after the completion of 30 years of creditable service or on or after
4 his 60th birthday upon the completion of 25 years of creditable
5 service, the allowance shall be equal to one and eighty-two
6 hundredths percent (1.82%) of his average final compensation,
7 multiplied by the number of years of creditable service.
- 8 b. If the member's service retirement date occurs after his 60th birthday
9 and before his 65th birthday and prior to his completion of 25 years
10 or more of creditable service, his retirement allowance shall be
11 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
12 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
13 which his retirement date precedes the first day of the month
14 coincident with or next following his 65th birthday.
- 15 c. If the member's early service retirement date occurs on or after his
16 50th birthday and before his 60th birthday and after completion of 20
17 years of creditable service but prior to the completion of 30 years of
18 creditable service, his early service retirement allowance shall be
19 equal to the greater of:
- 20 1. The service retirement allowance as computed under
21 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
22 of one percent ($\frac{5}{12}$ of 1%) thereof for each month by which
23 his retirement date precedes the first day of the month
24 coincident with or next following the month the member
25 would have attained his 60th birthday, plus one-quarter of one
26 percent ($\frac{1}{4}$ of 1%) thereof for each month by which his 60th
27 birthday precedes the first day of the month coincident with
28 or next following his 65th birthday; or
 - 29 2. The service retirement allowance as computed under
30 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
31 difference between 30 years and his creditable service at
32 retirement; or
 - 33 3. If the member's creditable service commenced prior to July 1,
34 1994, the service retirement allowance equal to the actuarial
35 equivalent of the allowance payable at the age of 60 years as
36 computed in G.S. 135-5(b19)(2)b.
- 37 d. Notwithstanding the foregoing provisions, any member whose
38 creditable service commenced prior to July 1, 1963, shall not receive
39 less than the benefit provided by G.S. 135-5(b)."

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

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

- 45 (1) A member who is a law enforcement officer or an eligible former law
46 enforcement officer shall receive a service retirement allowance computed
47 as follows:
- 48 a. If the member's service retirement date occurs on or after his 60th
49 birthday, and completion of 10 years of creditable service as a law
50 enforcement officer, or on or after his 55th birthday and after the
51 completion of 30 years of creditable service, the allowance shall be

1 equal to one and eighty-two hundredths percent (1.82%) of his
2 average final compensation, multiplied by the number of years of his
3 creditable service.

4 b. If the member's service retirement date occurs on or after his 50th
5 birthday and before his 55th birthday with 20 or more years of
6 creditable service as a law enforcement officer and prior to the
7 completion of 30 years of creditable service, his retirement allowance
8 shall be equal the service retirement allowance payable under
9 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%)
10 thereof for each month by which his retirement date precedes the first
11 day of the month coincident with or next following the month the
12 member would have attained his 60th birthday.

13 (2) A member who is not a law enforcement officer or an eligible former law
14 enforcement officer shall receive a service retirement allowance computed
15 as follows:

16 a. If the member's service retirement date occurs on or after the
17 member's 70th birthday upon the completion of 10 years of
18 membership service or after the member's 60th birthday upon the
19 completion of 30 years of creditable service, the allowance shall be
20 equal to one and eighty-two hundredths percent (1.82%) of the
21 member's average final compensation, multiplied by the number of
22 years of creditable service.

23 b. If the member's service retirement date occurs after the member's
24 65th birthday and before the member's 70th birthday and prior to the
25 completion of 10 years or more of creditable service, the member's
26 retirement allowance shall be computed as in G.S. 135-5(b20)(2)a.
27 but shall be reduced by three percent (3%) per year or prorated by the
28 month for each year by which the member's retirement date precedes
29 the first day of the month coincident with or next following the
30 member's 70th birthday.

31 c. If the member's early service retirement date occurs on or after the
32 member's 60th birthday and before the member's 70th birthday and
33 after completion of 20 years of creditable service, the member's early
34 service retirement allowance shall be computed as in
35 G.S. 135-5(b20)(2)a. but shall be the actuarial equivalent of the
36 allowance payable at age 70."

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

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

44 (1) a. The member had attained such age and/or creditable service to be
45 eligible to commence retirement with an early or service retirement
46 allowance,

47 b. The member had obtained 20 years of creditable service in which
48 case the retirement allowance shall be computed in accordance with
49 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
50 requirement of obtaining age 50,

1 b1. The member was a law enforcement officer who had obtained 15
2 years of service as a law enforcement officer and was killed in the
3 line of duty, in which case the retirement allowance shall be
4 computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding
5 the requirement of obtaining age 50, or

6 c. The member had not commenced to receive a retirement allowance
7 as provided under this Chapter.

8 (2) The member had designated as the principal beneficiary to receive a return
9 of his accumulated contributions one and only one person who was living at
10 the time of his death.

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

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

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

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

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

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

43 (1) a. The member had attained such age and/or creditable service to be
44 eligible to commence retirement with an early or service retirement
45 allowance.

46 b. The member had attained 20 years of creditable service, in which
47 case the retirement allowance shall be computed in accordance with
48 G.S. 135-5(b20)(2)c., and is 60 years of age.

49 c. The member was a law enforcement officer who had attained 15
50 years of service as a law enforcement officer and was killed in the
51 line of duty, in which case the retirement allowance shall be

1 computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding
2 the requirement of attaining age 55 with 20 years of service.

3 d. The member had not commenced to receive a retirement allowance
4 as provided under this Chapter.

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

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

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

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

27 For the purpose of calculating this benefit, any terminal payouts made
28 after the date of death that meet the definition of compensation shall be
29 credited to the month prior to the month of death. These terminal payouts do
30 not include salary or wages paid for work performed during the month of
31 death."

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

33 "(5) "Average final compensation" shall mean (i) for members who became
34 members prior to August 1, 2011, the average annual compensation of a
35 member during the four consecutive calendar years of membership service
36 producing the highest such average; ~~average, and~~ (ii) for persons who
37 became members on or after August 1, 2011, the average annual
38 compensation of a member during the 120 consecutive calendar months of
39 membership service producing the highest such average; but shall not
40 include any compensation, as determined by the Board of Trustees, for the
41 reimbursement of expenses or payments for housing or any other allowances
42 whether or not classified as salary and wages. In the event a member is or
43 has been in receipt of a benefit under the provisions of G.S. 135-105 or
44 G.S. 135-106, the compensation used in the calculation of "average final
45 compensation" shall be the higher of compensation of the member under the
46 provisions of this Article or compensation used in calculating the payment of
47 benefits under Article 6 of this Chapter as adjusted for percentage increases
48 in the post disability benefit."

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

50 "(2a) "Average final compensation" shall mean (i) for members who became
51 members prior to August 1, 2011, the average annual compensation of a

1 member during the 48 consecutive calendar months of membership service
2 producing the highest such ~~average-average~~, and (ii) for persons who became
3 members on or after August 1, 2011, the average annual compensation of a
4 member during the 120 consecutive calendar months of membership service
5 producing the highest such average."

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

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

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

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

45 "(a7) Retirement Allowance of Members Who Became Members On or After August 1,
46 2011. – Upon retirement from service, a member shall receive an unreduced retirement benefit
47 after the member has either attained the member's 70th birthday with 10 or more years of
48 membership service or has completed 25 years or more of creditable service and has attained
49 the age of 60, or the member shall receive a reduced benefit after attaining the age of 65 with
50 10 or more years of membership service reduced by three percent (3%) per year or prorated by
51 the month for each year by which the member's retirement date precedes the first day of the

1 month coincident with or next following the member's 70th birthday. The member shall receive
2 the annual retirement allowance, payable monthly, which shall commence on the effective date
3 of the member's retirement and shall be continued on the first day of each month thereafter
4 during the member's lifetime, the amount of which shall be computed as the sum of the
5 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event
6 shall the annual allowance payable to any member be greater than an amount which, when
7 added to the allowance, if any, to which the member is entitled under the Teachers' and State
8 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental
9 Employees' Retirement System (prior in any case to any reduction for early retirement or for an
10 optional mode of payment), would total three-fourths of the member's final compensation:

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

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

36 "**§ 135-57. Service retirement.**

37 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
38 2011, and who has attained his fiftieth birthday and five years of membership service may
39 retire upon electronic submission or written application to the board of trustees setting forth at
40 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
41 subsequent to the execution and filing thereof, he desires to be retired.

42 (b) Any member who is a justice or judge of the General Court of Justice shall be
43 automatically retired as of the first day of the calendar month coinciding with or next following
44 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
45 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
46 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
47 office under the provisions of G.S. 7A-4.20.

48 (c) Any member who terminates service on or after January 1, 1974, having
49 accumulated five or more years of creditable service and having become a member prior to
50 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall

1 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
2 and the requirement of subsection (a) that the member be in service shall not apply.

3 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
4 may retire upon electronic submission or written application to the board of trustees setting
5 forth at what time, as of the first day of a calendar month, not less than one day nor more than
6 120 days subsequent to the execution and filing thereof, he desires to be retired."

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

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

10 (1) The State Treasurer or the State Treasurer's designee.

11 (2) The Executive Administrator of the State Health Plan for Teachers and State
12 Employees.

13 (3) Four members appointed by the President Pro Tempore of the Senate.

14 (4) Four members appointed by the Speaker of the House of Representatives.

15 (5) Four members appointed by the Governor.

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

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

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

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

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

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

38 (1) Whether the changing demographics among State employees require
39 changes to the current defined benefit plan and the health plan.

40 (2) Whether there is a need to establish a normal retirement age when retirement
41 and health benefits are to begin.

42 (3) Whether the retirement plan should have a defined contribution component.

43 (4) Whether the current benefits plan serves the need to recruit and retain the
44 best teachers and State employees.

45 (5) Any other issues the Commission deems relevant to improvement of the
46 retirement systems and the State Health Plan.

47 (6) The relationship between the State Health Plan, the Teachers' and State
48 Employees' Retirement System, and the Disability Income Plan.

49 **SECTION 14.(e)** The Commission shall make an interim report to the 2011
50 Regular Session of the General Assembly prior to its reconvening in 2012 and shall make a
51 final report to the 2013 Regular Session of the General Assembly prior to its convening. The

1 report shall include any proposed legislation. The Commission shall terminate upon filing its
2 final report or upon the convening of the 2013 General Assembly, whichever is earlier.

3 **SECTION 15.** This act becomes effective August 1, 2011.