

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1618

Short Title: Fire and Rescue Disability Amendment. (Public)

Sponsors: Representative Cox.

Referred to: Pensions and Retirement.

June 12, 2002

A BILL TO BE ENTITLED
AN ACT TO AMEND THE ELIGIBILITY REQUIREMENTS FOR DISABILITY
RETIREMENT BENEFITS FOR LAW ENFORCEMENT OFFICERS, FIREMEN,
AND RESCUE SQUAD WORKERS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27(c) reads as rewritten:

"(c) Disability Retirement Benefits. – Upon the application of a member or of his employer, any member who has had five or more years of creditable service may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 90 days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided further, that the Medical Board shall not certify any member as disabled who:

- (1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or
- (2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement officer or a fireman as defined in G.S.

1 58-86-25 or rescue squad worker as defined in G.S. 58-86-30 and who has had one year
2 or more of creditable service and becomes incapacitated for duty as the natural and
3 proximate result of an accident or specific traumatic incident occurring while in the
4 actual performance of duty, and meets all other requirements for disability retirement
5 benefits, may be retired by the Board of Trustees on a disability retirement allowance.

6 Notwithstanding the foregoing to the contrary, any beneficiary who commenced
7 retirement with an early or service retirement benefit has the right, within three years of
8 his retirement, to convert to an allowance with disability retirement benefits without
9 modification of any election of optional allowance previously made; provided, the
10 beneficiary would have met all applicable requirements for disability retirement benefits
11 while still in service as a member. The allowance on account of disability retirement
12 benefits to the beneficiary shall be retroactive to the effective date of early or service
13 retirement.

14 Notwithstanding the foregoing, effective April 1, 1991, the surviving designated
15 beneficiary of a deceased member who met all other requirements for disability
16 retirement benefits, except whose death occurred before the first day of the calendar
17 month in which the member's disability retirement allowance was to be due and
18 payable, may elect to receive the reduced retirement allowance provided by a one
19 hundred percent (100%) joint and survivor payment option in lieu of a return of
20 accumulated contributions, provided the following conditions apply:

- 21 (1) The member had designated as the principal beneficiary, to receive a
22 return of accumulated contributions at the time of his death, one and
23 only one person, and
- 24 (2) The member had not instructed the Board of Trustees in writing that he
25 did not wish the provision of this subsection to apply."

26 **SECTION 2.** This act is effective when it becomes law and applies to
27 disabilities originating on or after that date.