

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 697

Short Title: Remove Restriction/LEO Disability Benefits. (Public)

Sponsors: Representatives Dickson, Martin, McLawhorn, Wiley (Primary Sponsors); Allen, Avila, Blackwood, Brisson, Burr, Burris-Floyd, Carney, Cleveland, Cotham, Dollar, Faison, Fisher, Glazier, Guice, Harrell, Harrison, Holloway, Hughes, Hurley, Insko, Jackson, Jeffus, Killian, Lewis, Lucas, Randleman, Rapp, Stewart, Tarleton, R. Warren, and Weiss.

Referred to: Homeland Security, Military, and Veterans Affairs, if favorable, Pensions and Retirement.

March 23, 2009

A BILL TO BE ENTITLED

1 AN ACT TO REMOVE THE REQUIREMENT THAT LAW ENFORCEMENT OFFICERS
2 HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO QUALIFY FOR
3 DISABILITY RETIREMENT BENEFITS UNDER THE LOCAL GOVERNMENTAL
4 EMPLOYEES' RETIREMENT SYSTEM FOR INJURIES INCURRED IN THE LINE OF
5 DUTY.

6 The General Assembly of North Carolina enacts:

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

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

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

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

29 Notwithstanding the requirement of five or more years of creditable service to the contrary,
30 a member who is a law enforcement officer or a fireman as defined in G.S. 58-86-25 or rescue
31 squad worker as defined in G.S. 58-86-30 ~~and who has had one year or more of creditable~~
32 ~~service~~ and becomes incapacitated for duty as the natural and proximate result of an accident



1 occurring while in the actual performance of duty, and meets all other requirements for
2 disability retirement benefits, may be retired by the Board of Trustees on a disability retirement
3 allowance.

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

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

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

23 **SECTION 2.** This act becomes effective July 1, 2009.