

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 766*

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

Sponsors: Representatives Womble, Parmon, Mobley, Jones (Primary Sponsors); Adams, K. Alexander, M. Alexander, Blue, Brown, Bryant, Dollar, Faison, Farmer-Butterfield, E. Floyd, Glazier, Hall, Harrison, Luebke, Mackey, McGee, Spear, Tarleton, Wainwright, Weiss, and Wray.

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

March 25, 2009

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

The General Assembly of North Carolina enacts:

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

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

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



1 For the purpose of this benefit, a member is considered to be in service at the date of his
2 death if his death occurs within 180 days from the last day of his actual service. The last day of
3 actual service shall be determined as provided in subsection (l) of this section. Upon the death
4 of a member in service, the surviving spouse may make all purchases for creditable service as
5 provided for under this Chapter for which the member had made application in writing prior to
6 the date of death, provided that the date of death occurred prior to or within 60 days after
7 notification of the cost to make the purchase. The term "in service" as used in this subsection
8 includes a member in receipt of a benefit under the Disability Income Plan as provided in
9 Article 6 of this Chapter.

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

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

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

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

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

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