

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 873

Short Title: Fire and Rescue Workers' Retirement. (Public)

Sponsors: Representatives Holliman; Cotham, Faison, Glazier, Harrison, Howard, Insko, Wainwright, and Wray.

Referred to: Pensions and Retirement, if favorable, Finance.

March 31, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE BENEFITS FOR CAREER FIREFIGHTERS AND CAREER
3 RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE LOCAL
4 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 128-21 is amended by adding two new subdivisions to read:

7 "(7b) "Career firefighter" means a person: (i) who is a full-time paid employee of
8 an employer that participates in the Local Governmental Employees'
9 Retirement System and maintains a fire department certified by the North
10 Carolina Department of Insurance, and (ii) who is actively serving in a
11 position with assigned primary duties and responsibilities for the prevention,
12 detection, and suppression of fire.

13 (7c) "Career rescue squad worker" means a person: (i) who is a full-time paid
14 employee of an employer that participates in the Local Governmental
15 Employees' Retirement System and maintains a rescue squad or emergency
16 medical services team certified by the North Carolina Department of
17 Insurance or the Department of Health and Human Services, and (ii) who is
18 actively serving in a position with assigned primary duties and
19 responsibilities for the alleviation of human suffering and assistance to
20 persons who are in difficulty, who are injured, or who become suddenly ill,
21 by providing proper and efficient care or emergency medical services."

22 **SECTION 2.** G.S. 128-24(5) reads as rewritten:

23 "(5) The provisions of this subdivision (5) shall apply to any member whose
24 membership is terminated on or after July 1, 1965, and who becomes entitled
25 to benefits hereunder in accordance with the provisions hereof.

26 a. Notwithstanding any other provision of this Chapter, any member
27 who separates from service prior to the attainment of the age of 60
28 years for any reason other than death or retirement for disability as
29 provided in G.S. 128-27(c), after completing 15 or more years of
30 creditable service, and who leaves his total accumulated
31 contributions in said System shall have the right to retire on a
32 deferred retirement allowance upon attaining the age of 60 years;
33 provided that such member may retire only upon written application
34 to the Board of Trustees setting forth at what time, not less than one
35 day nor more than 90 days subsequent to the execution and filing
36 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, 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 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 eligible former law enforcement officer.

b. In lieu of the benefits provided in paragraph a of this subdivision, any member 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. 128-27(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 written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 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 is a law enforcement ~~officer~~officer, career firefighter, or career rescue squad worker 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 immediately prior to separation from service, and who leaves his total accumulated contributions in this System, may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days

1 subsequent to the execution and filing thereof, he desires to
2 commence retirement. The deferred early retirement allowance shall
3 be computed in accordance with the service retirement provisions of
4 this Article pertaining to law enforcement ~~officers.~~ officers, career
5 firefighters, or career rescue squad workers.

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

24 b3. Deferred retirement allowance of members retiring on or after July 1,
25 1995. – In lieu of the benefits provided in paragraphs a. and b. of this
26 subdivision, any member who separates from service prior to
27 attainment of age 60 years, after completing 20 or more years of
28 creditable service, and who leaves his total accumulated
29 contributions in said System, may elect to retire on a deferred
30 retirement allowance upon attaining the age of 50 years or any time
31 thereafter; provided that such member may so retire only upon
32 written application to the Board of Trustees setting forth at what
33 time, not less than one day nor more than 90 days subsequent to the
34 execution and filing thereof, he desires to be retired. Such deferred
35 retirement allowance shall be computed in accordance with the
36 service retirement provisions of this Article pertaining to a member
37 who is not a law enforcement ~~officer~~ or officer, an eligible former
38 law enforcement ~~officer.~~ officer, a career firefighter, an eligible
39 former career firefighter, a career rescue squad worker, or an eligible
40 former career rescue squad worker.

41 c. Should a beneficiary who retired on an early or service retirement
42 allowance be reemployed by, or otherwise engaged to perform
43 services for, an employer participating in the Retirement System on a
44 part-time, temporary, interim, or on fee-for-service basis, whether
45 contractual or otherwise, and if such beneficiary earns an amount
46 during the 12-month period immediately following the effective date
47 of retirement or in any calendar year which exceeds fifty percent
48 (50%) of the reported compensation, excluding terminal payments,
49 during the 12 months of service preceding the effective date of
50 retirement, or twenty thousand dollars (\$20,000), whichever is
51 greater, as hereinafter indexed, then the retirement allowance shall be

1 suspended as of the first day of the month following the month in
2 which the reemployment earnings exceed the amount above, for the
3 balance of the calendar year, except when the reemployment earnings
4 exceed the amount above in the month of December, in which case
5 the retirement allowance shall not be suspended. The retirement
6 allowance of the beneficiary shall be reinstated as of January 1 of
7 each year following suspension. The amount that may be earned
8 before suspension shall be increased on January 1 of each year by the
9 ratio of the Consumer Price Index to the Index one year earlier,
10 calculated to the nearest tenth of a percent (1/10 of 1%).

- 11 d. Should a beneficiary who retired on an early or service retirement
12 allowance be restored to service as an employee, then the retirement
13 allowance shall cease as of the first day of the month following the
14 month in which the beneficiary is restored to service and the
15 beneficiary shall become a member of the Retirement System and
16 shall contribute thereafter as allowed by law at the uniform
17 contribution payable by all members.

18 Upon his subsequent retirement, he shall be paid a retirement
19 allowance determined as follows:

- 20 1. For a member who earns at least three years' membership
21 service after restoration to service, the retirement allowance
22 shall be computed on the basis of his compensation and
23 service before and after the period of prior retirement without
24 restriction; provided, that if the prior allowance was based on
25 a social security leveling payment option, the allowance shall
26 be adjusted actuarially for the difference between the amount
27 received under the optional payment and what would have
28 been paid if the retirement allowance had been paid without
29 optional modification.
- 30 2. For a member who does not earn three years' membership
31 service after restoration to service, the retirement allowance
32 shall be equal to the sum of the retirement allowance to which
33 he would have been entitled had he not been restored to
34 service, without modification of the election of an optional
35 allowance previously made, and the retirement allowance that
36 results from service earned since being restored to service;
37 provided, that if the prior retirement allowance was based on
38 a social security leveling payment option, the prior allowance
39 shall be adjusted actuarially for the difference between the
40 amount that would have been paid for each month had the
41 payment not been suspended and what would have been paid
42 if the retirement allowance had been paid without optional
43 modification."

44 **SECTION 3.** G.S. 128-27(a) reads as rewritten:

45 "(a) Service Retirement Benefits. –

- 46 (1) Any member may retire upon written application to the Board of Trustees
47 setting forth at what time, as of the first day of a calendar month, not less
48 than one day nor more than 90 days subsequent to the execution and filing
49 thereof, he desires to be retired: Provided, that the said member at the time
50 so specified for his retirement shall have attained the age of 60 years and
51 have at least five years of creditable service or shall have completed 30 years

1 of creditable service, or if a ~~fireman, he~~ career firefighter or career rescue
2 squad worker, the member shall have attained the age of 55 years and have
3 at least five years of creditable ~~service, service in that capacity.~~

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

5 (3) Repealed by Session Laws 1971, c. 325, s. 12.

6 (4) Any member who was in service October 8, 1981, who had attained 60 years
7 of age, may retire upon written application to the Board of Trustees setting
8 forth at what time, as of the first day of a calendar month, not less than one
9 day nor more than 90 days subsequent to the execution and filing thereof, he
10 desires to be retired.

11 (5) Any member who is a law enforcement officer, career firefighter, or career
12 rescue squad worker and who attains age 50 and completes 15 or more years
13 of creditable service in this capacity or who attains age 55 and completes
14 five or more years of creditable service in this capacity, may retire upon
15 written application to the Board of Trustees setting forth at what time, as of
16 the first day of a calendar month, not less than one day nor more than 90
17 days subsequent to the execution and filing thereof, ~~he~~ the member desires to
18 be retired; provided, also, any member who has met the conditions required
19 by this subdivision but does not retire, and later becomes an employee other
20 than as a law enforcement officer, career firefighter, or career rescue squad
21 worker continues to have the right to commence retirement."

22 **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

23 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003-2003,~~
24 but Before July 1, 2007. – Upon retirement from service in accordance with subsection (a) or
25 (a1) above, on or after July 1, 2003, but before July 1, 2007, a member shall receive the
26 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-five
34 hundredths percent (1.85%) 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. 128-27(b21)(1)a. reduced by one-third of one percent
43 (1/3 of 1%) thereof for each month by which his retirement
44 date precedes the first day of the month coincident with or
45 next following the month the member would have attained his
46 55th birthday;

47 2. The service retirement allowance as computed under
48 G.S. 128-27(b21)(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 creditable 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-five
9 hundredths percent (1.85%) of 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. 128-27(b21)(2)a. but shall be reduced by
15 one-quarter of one percent (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 G.S.
24 128-27(b21)(2)a. but reduced by the sum of five-twelfths of
25 one percent (5/12 of 1%) thereof for each month by which his
26 retirement date precedes the first day of the month coincident
27 with or next following the month the member would have
28 attained his 60th birthday, plus one-quarter of one percent
29 (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 G.S.
33 128-27(b21)(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 1995, 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. 128-27(b21)(2)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1965, shall not receive
42 less than the benefit provided by G.S. 128-27(b)."

43 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

44 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2007. – Upon
45 retirement from service in accordance with subsection (a) or (a1) of this section, on or after
46 July 1, 2007, a member shall receive the following service retirement allowance:

- 47 (1) A member who is a law enforcement officer, an eligible former law
48 enforcement officer, a career firefighter, an eligible former career firefighter,
49 a career rescue squad worker, or an eligible former career rescue squad
50 worker shall receive a service retirement allowance computed as follows:

- 1 a. If the member's service retirement date occurs on or after his 55th
2 birthday and completion of five years of creditable service as a law
3 enforcement officer, career firefighter, or a career rescue squad
4 worker, or after the completion of 30 years of creditable service, the
5 allowance shall be equal to one and eighty-five hundredths percent
6 (1.85%) of his average final compensation, multiplied by the number
7 of years of his 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 15 or more years of
10 creditable service as a law enforcement officer, career firefighter, or
11 career rescue squad worker and prior to the completion of 30 years of
12 creditable service, his retirement allowance shall be equal to the
13 greater of:
- 14 1. The service retirement allowance payable under G.S.
15 128-27(b22)(1)a. reduced by one-third of one percent (1/3 of
16 1%) thereof for each month by which his retirement date
17 precedes the first day of the month coincident with or next
18 following the month the member would have attained his
19 55th birthday;
- 20 2. The service retirement allowance as computed under G.S.
21 128-27(b22)(1)a. reduced by five percent (5%) times the
22 difference between 30 years and his creditable service at
23 retirement.
- 24 (2) A member who is not a law enforcement officer, an eligible former law
25 enforcement officer, a career firefighter, an eligible former career firefighter,
26 a career rescue squad worker, or an eligible former career rescue squad
27 worker shall receive a service retirement allowance computed as follows:
- 28 a. If the member's service retirement date occurs on or after his 65th
29 birthday upon the completion of five years of creditable service or
30 after the completion of 30 years of creditable service or on or after
31 his 60th birthday upon the completion of 25 years of creditable
32 service, the allowance shall be equal to one and eighty-five
33 hundredths percent (1.85%) of average final compensation,
34 multiplied by the number of years of creditable service.
- 35 b. If the member's service retirement date occurs after his 60th birthday
36 and before his 65th birthday and prior to his completion of 25 years
37 or more of creditable service, his retirement allowance shall be
38 computed as in G.S. 128-27(b22)(2)a. but shall be reduced by
39 one-quarter of one percent (1/4 of 1%) thereof for each month by
40 which his retirement date precedes the first day of the month
41 coincident with or next following his 65th birthday.
- 42 c. If the member's early service retirement date occurs on or after his
43 50th birthday and before his 60th birthday and after completion of 20
44 years of creditable service but prior to the completion of 30 years of
45 creditable service, his early service retirement allowance shall be
46 equal to the greater of:
- 47 1. The service retirement allowance as computed under G.S.
48 128-27(b22)(2)a. but reduced by the sum of five-twelfths of
49 one percent (5/12 of 1%) thereof for each month by which his
50 retirement date precedes the first day of the month coincident
51 with or next following the month the member would have

1 attained his 60th birthday, plus one-quarter of one percent
 2 (1/4 of 1%) thereof for each month by which his 60th
 3 birthday precedes the first day of the month coincident with
 4 or next following his 65th birthday; or

5 2. The service retirement allowance as computed under G.S.
 6 128-27(b22)(2)a. reduced by five percent (5%) times the
 7 difference between 30 years and his creditable service at
 8 retirement; or

9 3. If the member's creditable service commenced prior to July 1,
 10 1995, the service retirement allowance equal to the actuarial
 11 equivalent of the allowance payable at the age of 60 years as
 12 computed in G.S. 128-27(b22)(2)b.

13 d. Notwithstanding the foregoing provisions, any member whose
 14 creditable service commenced prior to July 1, 1965, shall not receive
 15 less than the benefit provided by G.S. 128-27(b)."

16 **SECTION 6.** 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)e.,
 28 G.S. 128-27(b22)(1)b. or G.S. 128-27(b22)(2)c., notwithstanding the
 29 requirement of obtaining age 50, or

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

32 (2) The member had designated as the principal beneficiary to receive a return
 33 of his accumulated contributions one and only one person who is living at
 34 the time of his death.

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

37 For the purpose of this benefit, a member is considered to be in service at the date of his
 38 death if his death occurs within 180 days from the last day of his actual service. The last day of
 39 actual service shall be determined as provided in subsection (1) of this section. Upon the death
 40 of a member in service, the surviving spouse may make all purchases for creditable service as
 41 provided for under this Chapter for which the member had made application in writing prior to
 42 the date of death, provided that the date of death occurred prior to or within 60 days after
 43 notification of the cost to make the purchase."

44 **SECTION 7.** This act becomes effective July 1, 2009, but shall not affect the rights
 45 of a person who is a vested member of the Local Governmental Employees' Retirement System
 46 on that date to any disability benefits for which that person is otherwise eligible on that date.