

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 1129

Short Title: Remove Restriction/Firefighter Disability. (Public)

Sponsors: Representative Boles (Primary Sponsor).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: State Personnel.

May 25, 2012

1 A BILL TO BE ENTITLED  
2 AN TO ACT REMOVE THE REQUIREMENT THAT FIREFIGHTERS AND RESCUE  
3 SQUAD WORKERS HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO  
4 QUALIFY FOR DISABILITY RETIREMENT BENEFITS UNDER THE LOCAL  
5 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR INJURIES  
6 INCURRED IN THE LINE OF DUTY.

7 The General Assembly of North Carolina enacts:

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

9 "(c) Disability Retirement Benefits. – Upon the application of a member or of his  
10 employer, any member who has had five or more years of creditable service may be retired by  
11 the Board of Trustees, on the first day of any calendar month, not less than one day nor more  
12 than 120 days next following the date of filing such application, on a disability retirement  
13 allowance: Provided, that the medical board, after a medical examination of such member, shall  
14 certify that such member is mentally or physically incapacitated for the further performance of  
15 duty, that such incapacity was incurred at the time of active employment and has been  
16 continuous thereafter, that such incapacity is likely to be permanent, and that such member  
17 should be retired; Provided further the medical board shall determine if the member is able to  
18 engage in gainful employment and, if so, the member may still be retired and the disability  
19 retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided  
20 further, that the Medical Board shall not certify any member as disabled who:

- 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~~officer, an eligible fireman as defined in  
31 G.S. 58-86-25, or an eligible rescue squad worker as defined in G.S. 58-86-30 and becomes  
32 incapacitated for duty as the natural and proximate result of injuries incurred while in the actual  
33 performance of his or her duties, and meets all other requirements for disability retirement  
34 benefits, may be retired by the Board of Trustees on a disability retirement allowance.



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

7       Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement  
8 with an early or service retirement benefit has the right, within three years of his retirement, to  
9 convert to an allowance with disability retirement benefits without modification of any election  
10 of optional allowance previously made; provided, the beneficiary would have met all applicable  
11 requirements for disability retirement benefits while still in service as a member. The allowance  
12 on account of disability retirement benefits to the beneficiary shall be retroactive to the  
13 effective date of early or service 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 retirement  
16 benefits, except whose death occurred before the first day of the calendar month in which the  
17 member's disability retirement allowance was to be due and payable, may elect to receive the  
18 reduced retirement allowance provided by a one hundred percent (100%) joint and survivor  
19 payment option in lieu of a return of accumulated contributions, provided the following  
20 conditions apply:

- 21           (1)     At the time of the member's death, one and only one beneficiary is eligible to  
22                    receive a return of accumulated contributions, and
- 23           (2)     The member had not instructed the Board of Trustees in writing that he did  
24                    not wish the provision of this subsection to apply."

25       **SECTION 2.** This act becomes effective July 1, 2012.