

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011**

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**HOUSE BILL 927**

Short Title: State Pension Plan Solvency Reform Act. (Public)

Sponsors: Representatives Folwell, McGee, Dixon, and Starnes (Primary Sponsors).  
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: State Personnel, if favorable, Finance.

May 5, 2011

A BILL TO BE ENTITLED

1 AN ACT TO ADJUST THE RETIREMENT AGE FOR MEMBERS OF THE TEACHERS'  
2 AND STATE EMPLOYEES' RETIREMENT SYSTEM WHO BECOME MEMBERS ON  
3 OR AFTER AUGUST 1, 2011, TO LIMIT THE AMOUNT OF SICK LEAVE THAT  
4 CAN BE CONVERTED TO RETIREMENT CREDIT, TO LIMIT COMPENSATION  
5 FOR PURPOSES OF CONTRIBUTIONS AND CALCULATION OF BENEFITS FOR  
6 MEMBERS WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, TO THE  
7 SALARY SET FOR THE GOVERNOR, TO PROVIDE THAT COMPENSATION TO BE  
8 USED IN CALCULATING AVERAGE FINAL COMPENSATION FOR MEMBERS  
9 WHO BECOME MEMBERS ON OR AFTER AUGUST 1, 2011, CAN INCREASE BY  
10 NO MORE THAN TEN PERCENT FROM ONE YEAR TO THE NEXT, TO AMEND  
11 THE PROVISIONS SPECIAL SEPARATION ALLOWANCE FOR LAW  
12 ENFORCEMENT OFFICERS HIRED ON OR AFTER AUGUST 1, 2011, AND TO  
13 MAKE IT A CLASS 1 MISDEMEANOR TO FRAUDULENTLY RECEIVE THE  
14 RETIREMENT BENEFIT OF A DECEASED RETIREE AT LEAST TWO MONTHS  
15 AFTER THE RETIREE'S DEATH.

16 The General Assembly of North Carolina enacts:

17 **SECTION 1.** G.S. 135-3(8) reads as rewritten:

18 "(8) The provisions of this subsection (8) shall apply to any member whose  
19 membership is terminated on or after July 1, 1963 and who becomes entitled  
20 to benefits hereunder in accordance with the provisions hereof.

21 a. Notwithstanding any other provision of this Chapter, any member  
22 who became a member prior to August 1, 2011, and who separates  
23 from service prior to the attainment of the age of 60 years for any  
24 reason other than death or retirement for disability as provided in  
25 G.S. 135-5(c), after completing 15 or more years of creditable  
26 service, and who leaves his total accumulated contributions in said  
27 System shall have the right to retire on a deferred retirement  
28 allowance upon attaining the age of 60 years; provided that such  
29 member may retire only upon electronic submission or written  
30 application to the Board of Trustees setting forth at what time, not  
31 less than one day nor more than ~~90~~120 days subsequent to the  
32 execution and filing thereof, he desires to be retired; and further  
33 provided that in the case of a member who so separates from service  
34 on or after July 1, 1967, or whose account is active on July 1, 1967,



1 or has not withdrawn his contributions, the aforesaid requirement  
 2 of 15 or more years of creditable service shall be reduced to 12 or  
 3 more years of creditable service; and further provided that in the case  
 4 of a member who so separates from service on or after July 1, 1971,  
 5 or whose account is active on July 1, 1971, the aforesaid  
 6 requirement of 12 or more years of creditable service shall be  
 7 reduced to five or more years of creditable service. Such deferred  
 8 retirement allowance shall be computed in accordance with the  
 9 service retirement provisions of this Article pertaining to a member  
 10 who is not a law enforcement officer or an eligible former law  
 11 enforcement officer. Notwithstanding the foregoing, any member  
 12 whose services as a teacher or employee are terminated for any  
 13 reason other than retirement, who becomes employed by a nonprofit,  
 14 nonsectarian private school in North Carolina below the college level  
 15 within one year after such teacher or employee has ceased to be a  
 16 teacher or employee, may elect to leave his total accumulated  
 17 contributions in the Teachers' and State Employees' Retirement  
 18 System during the period he is in the employment of such employer;  
 19 provided that he files notice thereof in writing with the Board of  
 20 Trustees of the Retirement System within five years after separation  
 21 from service as a public school teacher or State employee; such  
 22 member shall be deemed to have met the requirements of the above  
 23 provisions of this subdivision upon attainment of age 60 while in  
 24 such employment provided that he is otherwise vested.

25 b. In lieu of the benefits provided in paragraph a of this subdivision (8),  
 26 any member who became a member prior to August 1, 2011, and  
 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. 135-5(c), after completing 20 or more years of  
 30 creditable service, and who leaves his total accumulated  
 31 contributions in said System, may elect to retire on an early  
 32 retirement allowance upon attaining the age of 50 years or at any  
 33 time thereafter; provided that such member may so retire only upon  
 34 electronic submission or written application to the Board of Trustees  
 35 setting forth at what time, not less than one day nor more than ~~90-120~~  
 36 days subsequent to the execution and filing thereof, he desires to be  
 37 retired. Such early retirement allowance so elected shall be equal to  
 38 the deferred retirement allowance otherwise payable at the attainment  
 39 of the age of 60 years reduced by the percentage thereof indicated  
 40 below.

Age at Retirement	Percentage Reduction
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- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who became a member prior to August 1, 2011, and who is a law-enforcement officer 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 electronic submission or 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~~120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who became a member prior to August 1, 2011, and who is a law-enforcement officer at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five 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 55 years or at any time thereafter; provided, that the member may commence retirement only upon electronic submission or 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~~120 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law-enforcement officers.
- b3. Vested deferred retirement allowance of members retiring on or after July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who became a member prior to August 1, 2011, and who separates from service prior to attainment of age 60 years, after completing 20 or more years of creditable service, and who leaves his total accumulated contributions in said System, may elect to retire on a deferred retirement allowance upon attaining the age of 50 years or any time thereafter; provided that such member may so retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to be retired. 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 an eligible former law enforcement officer.

1 ...."

2 **SECTION 2.** G.S. 135-5(a) reads as rewritten:

3 "(a) Service Retirement Benefits. –

4 (1) Any member who became a member prior to August 1, 2011, may retire  
5 upon electronic submission or written application to the Board of Trustees  
6 setting forth at what time, as of the first day of a calendar month, not less  
7 than one day nor more than 120 days subsequent to the execution of and  
8 filing thereof, he desires to be retired: Provided, that the said member at the  
9 time so specified for his retirement shall have attained the age of 60 years  
10 and have at least five years of membership service or shall have completed  
11 30 years of creditable service.

12 (1a) Any member who became a member on or after August 1, 2011, and who  
13 attains age 60 and has completed 30 years of creditable service or who  
14 attains age 70 and has completed 10 years of membership service may retire  
15 on an unreduced retirement benefit upon electronic submission or written  
16 application to the Board of Trustees setting forth at what time, as of the first  
17 day of a calendar month, not less than one day nor more than 120 days  
18 subsequent to the execution of and filing thereof, the member desires to be  
19 retired. At the time specified for retirement, the member may retire on a  
20 reduced benefit upon attaining age 60 with 20 years of service or age 65 with  
21 10 years of service.

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

23 (3) Any member who was in service October 8, 1981, who had attained 60 years  
24 of age, may retire upon electronic submission or written application to the  
25 Board of Trustees setting forth at what time, as of the first day of a calendar  
26 month, not less than one day nor more than 120 days subsequent to the  
27 execution and filing thereof, he desires to be retired.

28 (4) Any member who is a law-enforcement officer, who became a member prior  
29 to August 1, 2011, and who attains age 50 and completes 15 or more years  
30 of creditable service in this capacity or who attains age 55 and completes  
31 five or more years of creditable service in this capacity, may retire upon  
32 electronic submission or written application to the Board of Trustees setting  
33 forth at what time, as of the first day of a calendar month, not less than one  
34 day nor more than 120 days subsequent to the execution and filing thereof,  
35 he desires to be retired; Provided, also, any member who has met the  
36 conditions herein required but does not retire, and later becomes a teacher or  
37 an employee other than as a law-enforcement officer shall continue to have  
38 the right to commence retirement.

39 (4a) Any member who became a member on or after August 1, 2011, who is a  
40 law enforcement officer and who attains age 55 and has completed 30 years  
41 of creditable service or who attains age 60 and completes 10 or more years  
42 of creditable service in this capacity may retire on an unreduced retirement  
43 benefit upon electronic submission or written application to the Board of  
44 Trustees setting forth at what time, as of the first day of a calendar month,  
45 not less than one day nor more than 120 days subsequent to the execution  
46 and filing thereof, the member desires to be retired; provided, also, any  
47 member who has met the conditions herein required but does not retire and  
48 later becomes a teacher or an employee other than as a law enforcement  
49 officer shall continue to have the right to commence retirement.

50 (5) Any member who is eligible for and is being paid a benefit under the  
51 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be

1 deemed a member in service and may not retire under the provisions of this  
2 section. Any member who has made electronic submission or written  
3 application for long-term or extended short-term benefits under the  
4 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and  
5 who has been rejected by the Plan's Medical Board for a long-term or  
6 extended short-term benefit shall have 90 days from the date of notification  
7 of the rejection to convert his application to an early or service retirement  
8 application, provided that the member meets the eligibility requirements,  
9 effective the first day of the month following the month in which short-term  
10 disability benefits ended or the first day of the month following the month in  
11 which any salary continuation as may be provided in G.S. 135-104 ended,  
12 whichever is later."

13 **SECTION 3.** G.S. 135-5(a1) reads as rewritten:

14 "(a1) Early Service Retirement Benefits. – Any member who became a member prior to  
15 August 1, 2011, may retire and receive a reduced retirement allowance upon electronic  
16 submission or written application to the Board of Trustees setting forth at what time, as of the  
17 first day of a calendar month, not less than one day nor more than 120 days subsequent to the  
18 execution of and filing thereof, he desires to be retired: Provided, that the said member at the  
19 time so specified for his retirement shall have attained the age of 50 years and have at least 20  
20 years of creditable service."

21 **SECTION 4.** G.S. 135-5 is amended by adding a new subsection to read:

22 "(a2) Early Service Retirement Benefits. – Any member who became a member on or  
23 after August 1, 2011, may retire and receive a reduced retirement allowance upon electronic  
24 submission or written application to the Board of Trustees setting forth at what time, as of the  
25 first day of a calendar month, not less than one day nor more than 120 days subsequent to the  
26 execution of and filing thereof, the member desires to be retired; provided, that the said  
27 member at the time so specified for the member's retirement shall have attained the age of 60  
28 years and have at least 20 years of creditable service."

29 **SECTION 5.** G.S. 135-5(b19) reads as rewritten:

30 "(b19) Service Retirement Allowance of Members Who Became a Member Prior to  
31 August 1, 2011, Retiring on or After July 1, 2002. – Upon retirement from service in  
32 accordance with subdivision (a)(1), (a)(4), or subsection ~~(a) or (a1) above,~~ of this section, on or  
33 after July 1, 2002, a member shall receive the following service retirement allowance:

34 (1) A member who is a law enforcement officer or an eligible former law  
35 enforcement officer shall receive a service retirement allowance computed  
36 as follows:

37 a. If the member's service retirement date occurs on or after his 55th  
38 birthday, and completion of five years of creditable service as a law  
39 enforcement officer, or after the completion of 30 years of creditable  
40 service, the allowance shall be equal to one and eighty-two  
41 hundredths percent (1.82%) of his average final compensation,  
42 multiplied by the number of years of his creditable service.

43 b. If the member's service retirement date occurs on or after his 50th  
44 birthday and before his 55th birthday with 15 or more years of  
45 creditable service as a law enforcement officer and prior to the  
46 completion of 30 years of creditable service, his retirement allowance  
47 shall be equal to the greater of:

48 1. The service retirement allowance payable under  
49 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3  
50 of 1%) thereof for each month by which his retirement date  
51 precedes the first day of the month coincident with or next

- 1 following the month the member would have attained his  
2 55th birthday; or
- 3 2. The service retirement allowance as computed under  
4 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the  
5 difference between 30 years and his creditable service at  
6 retirement.
- 7 (2) A member who is not a law enforcement officer or an eligible former law  
8 enforcement officer shall receive a service retirement allowance computed  
9 as follows:
- 10 a. If the member's service retirement date occurs on or after his 65th  
11 birthday upon the completion of five years of membership service or  
12 after the completion of 30 years of creditable service or on or after  
13 his 60th birthday upon the completion of 25 years of creditable  
14 service, the allowance shall be equal to one and eighty-two  
15 hundredths percent (1.82%) of his average final compensation,  
16 multiplied by the number of years of creditable service.
- 17 b. If the member's service retirement date occurs after his 60th birthday  
18 and before his 65th birthday and prior to his completion of 25 years  
19 or more of creditable service, his retirement allowance shall be  
20 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by  
21 one-quarter of one percent ( $\frac{1}{4}$  of 1%) thereof for each month by  
22 which his retirement date precedes the first day of the month  
23 coincident with or next following his 65th birthday.
- 24 c. If the member's early service retirement date occurs on or after his  
25 50th birthday and before his 60th birthday and after completion of 20  
26 years of creditable service but prior to the completion of 30 years of  
27 creditable service, his early service retirement allowance shall be  
28 equal to the greater of:
- 29 1. The service retirement allowance as computed under  
30 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths  
31 of one percent ( $\frac{5}{12}$  of 1%) thereof for each month by which  
32 his retirement date precedes the first day of the month  
33 coincident with or next following the month the member  
34 would have attained his 60th birthday, plus one-quarter of one  
35 percent ( $\frac{1}{4}$  of 1%) thereof for each month by which his 60th  
36 birthday precedes the first day of the month coincident with  
37 or next following his 65th birthday; or
- 38 2. The service retirement allowance as computed under  
39 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the  
40 difference between 30 years and his creditable service at  
41 retirement; or
- 42 3. If the member's creditable service commenced prior to July 1,  
43 1994, the service retirement allowance equal to the actuarial  
44 equivalent of the allowance payable at the age of 60 years as  
45 computed in G.S. 135-5(b19)(2)b.
- 46 d. Notwithstanding the foregoing provisions, any member whose  
47 creditable service commenced prior to July 1, 1963, shall not receive  
48 less than the benefit provided by G.S. 135-5(b)."

49 **SECTION 6.** G.S. 135-5 is amended by adding a new subsection to read:

50 "(b20) Service Retirement Allowance of Members Who Became Members On or After  
51 August 1, 2011. – Upon retirement from service in accordance with subdivision (a)(1a), (a)(4a),

1 or subsection (a2) of this section, a member shall receive the following service retirement  
2 allowance:

3 (1) A member who is a law enforcement officer or an eligible former law  
4 enforcement officer shall receive a service retirement allowance computed  
5 as follows:

6 a. If the member's service retirement date occurs on or after his 60th  
7 birthday, and completion of 10 years of creditable service as a law  
8 enforcement officer, or on or after his 55th birthday and after the  
9 completion of 30 years of creditable service, the allowance shall be  
10 equal to one and eighty-two hundredths percent (1.82%) of his  
11 average final compensation, multiplied by the number of years of his  
12 creditable service.

13 b. If the member's service retirement date occurs on or after his 50th  
14 birthday and before his 55th birthday with 20 or more years of  
15 creditable service as a law enforcement officer and prior to the  
16 completion of 30 years of creditable service, his retirement allowance  
17 shall be equal the service retirement allowance payable under  
18 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%)  
19 thereof for each month by which his retirement date precedes the first  
20 day of the month coincident with or next following the month the  
21 member would have attained his 60th birthday.

22 (2) A member who is not a law enforcement officer or an eligible former law  
23 enforcement officer shall receive a service retirement allowance computed  
24 as follows:

25 a. If the member's service retirement date occurs on or after the  
26 member's 70th birthday upon the completion of 10 years of  
27 membership service or after the member's 60th birthday upon the  
28 completion of 30 years of creditable service, the allowance shall be  
29 equal to one and eighty-two hundredths percent (1.82%) of the  
30 member's average final compensation, multiplied by the number of  
31 years of creditable service.

32 b. If the member's service retirement date occurs after the member's  
33 65th birthday and before the member's 70th birthday and prior to the  
34 completion of 10 years or more of creditable service, the member's  
35 retirement allowance shall be computed as in G.S. 135-5(b20)(2)a.  
36 but shall be reduced by three percent (3%) per year or prorated by the  
37 month for each year by which the member's retirement date precedes  
38 the first day of the month coincident with or next following the  
39 member's 70th birthday.

40 c. If the member's early service retirement date occurs on or after the  
41 member's 60th birthday and before the member's 70th birthday and  
42 after completion of 20 years of creditable service, the member's early  
43 service retirement allowance shall be computed as in  
44 G.S. 135-5(b20)(2)a. but shall be the actuarial equivalent of the  
45 allowance payable at age 70."

46 **SECTION 7.** G.S. 135-5(m) reads as rewritten:

47 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, who became  
48 a member prior to August 1, 2011, the principal beneficiary designated to receive a return of  
49 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced  
50 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that

1 the member had retired on the first day of the month following the date of his death, provided  
2 that the following conditions apply:

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

22 For the purpose of this benefit, a member is considered to be in service at  
23 the date of his death if his death occurs within 180 days from the last day of  
24 his actual service. The last day of actual service shall be determined as  
25 provided in subsection (1) of this section. Upon the death of a member in  
26 service, the surviving spouse may make all purchases for creditable service  
27 as provided for under this Chapter for which the member had made  
28 application in writing prior to the date of death, provided that the date of  
29 death occurred prior to or within 60 days after notification of the cost to  
30 make the purchase. The term "in service" as used in this subsection includes  
31 a member in receipt of a benefit under the Disability Income Plan as  
32 provided in Article 6 of this Chapter.

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

40 For the purpose of calculating this benefit any terminal payouts made  
41 after the date of death that meet the definition of compensation shall be  
42 credited to the month prior to the month of death. These terminal payouts do  
43 not include salary or wages paid for work performed during the month of  
44 death."

45 **SECTION 8.** G.S. 135-5 is amended by adding a new subsection to read:

46 "(m3) Survivor's Alternate Benefit. – Upon the death of a member in service who became  
47 a member on or after August 1, 2011, the principal beneficiary designated to receive a return of  
48 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced  
49 retirement allowance provided by Option 2 of subsection (g) of this section computed by  
50 assuming that the member had retired on the first day of the month following the date of the  
51 member's death, provided that the following conditions apply:



- 1           (1)    a.    The member had attained such age and/or creditable service to be  
2                       eligible to commence retirement with an early or service retirement  
3                       allowance.  
4                       b.    The member had attained 20 years of creditable service, in which  
5                       case the retirement allowance shall be computed in accordance with  
6                       G.S. 135-5(b20)(2)c., and is 60 years of age.  
7                       c.    The member was a law enforcement officer who had attained 15  
8                       years of service as a law enforcement officer and was killed in the  
9                       line of duty, in which case the retirement allowance shall be  
10                      computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding  
11                      the requirement of attaining age 55 with 20 years of service.  
12                      d.    The member had not commenced to receive a retirement allowance  
13                      as provided under this Chapter.  
14           (2)    At the time of the member's death, one and only one person is eligible to  
15                      receive a return of the member's contributions.  
16           (3)    The member had not instructed the Board of Trustees in writing that the  
17                      member did not wish the provisions of this subsection to apply.

18                      For the purpose of this benefit, a member is considered to be in service at  
19                      the date of the member's death if the member's death occurs within 180 days  
20                      from the last day of his actual service. The last day of actual service shall be  
21                      determined as provided in subdivision (1) of this subsection. Upon the death  
22                      of a member in service, the surviving spouse may make all purchases for  
23                      creditable service as provided for under this Chapter for which the member  
24                      had made application in writing prior to the date of death, provided that the  
25                      date of death occurred prior to or within 60 days after notification of the cost  
26                      to make the purchase. The term "in service" as used in this subsection  
27                      includes a member in receipt of a benefit under the Disability Income Plan  
28                      as provided in Article 6 of this Chapter.

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

36                      For the purpose of calculating this benefit, any terminal payouts made  
37                      after the date of death that meet the definition of compensation shall be  
38                      credited to the month prior to the month of death. These terminal payouts do  
39                      not include salary or wages paid for work performed during the month of  
40                      death."

41           **SECTION 9.** G.S. 135-58(a6) reads as rewritten:

42           "(a6) Any member who became a member prior to August 1, 2011, and who retires under  
43 the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member  
44 has either attained the member's 65th birthday or has completed 24 years or more of creditable  
45 service, shall receive an annual retirement allowance, payable monthly, which shall commence  
46 on the effective date of the member's retirement and shall be continued on the first day of each  
47 month thereafter during the member's lifetime, the amount of which shall be computed as the  
48 sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in  
49 no event shall the annual allowance payable to any member be greater than an amount which,  
50 when added to the allowance, if any, to which the member is entitled under the Teachers' and  
51 State Employees' Retirement System, the Legislative Retirement System, or the Local

1 Governmental Employees' Retirement System (prior in any case to any reduction for early  
2 retirement or for an optional mode of payment), would total three-fourths of the member's final  
3 compensation:

- 4 (1) Four and two hundredths percent (4.02%) of the member's final  
5 compensation, multiplied by the number of years of creditable service  
6 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 7 (2) Three and fifty-two hundredths percent (3.52%) of the member's final  
8 compensation, multiplied by the number of years of creditable service  
9 rendered as a judge of the superior court or as Administrative Officer of the  
10 Courts;
- 11 (3) Three and two hundredths percent (3.02%) of the member's final  
12 compensation, multiplied by the number of years of creditable service  
13 rendered as a judge of the district court, district attorney, clerk of superior  
14 court, public defender, or the Director of Indigent Defense Services;
- 15 (4) A service retirement allowance computed in accordance with the service  
16 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
17 using an average final compensation as defined in G.S. 135-53(2a) and  
18 creditable service equal to the number of years of the member's creditable  
19 service that was transferred from the Local Governmental Employees'  
20 Retirement System to this System as provided in G.S. 135-56; and
- 21 (5) A service retirement allowance computed in accordance with the service  
22 retirement provisions of Article 1 of this Chapter using an average final  
23 compensation as defined in G.S. 135-53(2a) and creditable service, including  
24 any sick leave standing to the credit of the member, equal to the number of  
25 years of the member's creditable service that was transferred from the  
26 Teachers' and State Employees' Retirement System or the Legislative  
27 Retirement System to this System as provided in G.S. 135-56."

28 **SECTION 10.** G.S. 135-58 is amended by adding a new subsection to read:

29 "(a7) Retirement Allowance of Members Who Became Members On or After August 1,  
30 2011. – Upon retirement from service, a member shall receive an unreduced retirement benefit  
31 after the member has either attained the member's 70th birthday with 10 or more years of  
32 membership service or has completed 25 years or more of creditable service and has attained  
33 the age of 60, or the member shall receive a reduced benefit after attaining the age of 65 with  
34 10 or more years of membership service reduced by three percent (3%) per year or prorated by  
35 the month for each year by which the member's retirement date precedes the first day of the  
36 month coincident with or next following the member's 70th birthday. The member shall receive  
37 the annual retirement allowance, payable monthly, which shall commence on the effective date  
38 of the member's retirement and shall be continued on the first day of each month thereafter  
39 during the member's lifetime, the amount of which shall be computed as the sum of the  
40 amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event  
41 shall the annual allowance payable to any member be greater than an amount which, when  
42 added to the allowance, if any, to which the member is entitled under the Teachers' and State  
43 Employees' Retirement System, the Legislative Retirement System, or the Local Governmental  
44 Employees' Retirement System (prior in any case to any reduction for early retirement or for an  
45 optional mode of payment), would total three-fourths of the member's final compensation:

- 46 (1) Four and two hundredths percent (4.02%) of the member's average final  
47 compensation, multiplied by the number of years of creditable service  
48 rendered as a justice of the Supreme Court or judge of the Court of Appeals;
- 49 (2) Three and fifty-two hundredths percent (3.52%) of the member's average  
50 final compensation, multiplied by the number of years of creditable service

1 rendered as a judge of the superior court or as Administrative Officer of the  
2 Courts;

3 (3) Three and two hundredths percent (3.02%) of the member's average final  
4 compensation, multiplied by the number of years of creditable service  
5 rendered as a judge of the district court, district attorney, clerk of superior  
6 court, public defender, or the Director of Indigent Defense Services;

7 (4) A service retirement allowance computed in accordance with the service  
8 retirement provisions of Article 3 of Chapter 128 of the General Statutes  
9 using an average final compensation as defined in G.S. 135-53(2a) and  
10 creditable service equal to the number of years of the member's creditable  
11 service that was transferred from the Local Governmental Employees'  
12 Retirement System to this System as provided in G.S. 135-56; and

13 (5) A service retirement allowance computed in accordance with the service  
14 retirement provisions of Article 1 of this Chapter using an average final  
15 compensation as defined in G.S. 135-53(2a) and creditable service, including  
16 any sick leave standing to the credit of the member, equal to the number of  
17 years of the member's creditable service that was transferred from the  
18 Teachers' and State Employees' Retirement System or the Legislative  
19 Retirement System to this System as provided in G.S. 135-56."

20 **SECTION 11.** G.S. 135-57 reads as rewritten:

21 "**§ 135-57. Service retirement.**

22 (a) Any member on or after January 1, 1974, who became a member prior to August 1,  
23 2011, and who has attained his fiftieth birthday and five years of membership service may  
24 retire upon electronic submission or written application to the board of trustees setting forth at  
25 what time, as of the first day of a calendar month, not less than one day nor more than 120 days  
26 subsequent to the execution and filing thereof, he desires to be retired.

27 (b) Any member who is a justice or judge of the General Court of Justice shall be  
28 automatically retired as of the first day of the calendar month coinciding with or next following  
29 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,  
30 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the  
31 provisions of this subsection at an earlier date than the last day that he is permitted to remain in  
32 office under the provisions of G.S. 7A-4.20.

33 (c) Any member who terminates service on or after January 1, 1974, having  
34 accumulated five or more years of creditable service and having become a member prior to  
35 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall  
36 not have withdrawn his accumulated contributions prior to the effective date of his retirement,  
37 and the requirement of subsection (a) that the member be in service shall not apply.

38 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,  
39 may retire upon electronic submission or written application to the board of trustees setting  
40 forth at what time, as of the first day of a calendar month, not less than one day nor more than  
41 120 days subsequent to the execution and filing thereof, he desires to be retired."

42 **SECTION 12.(a)** G.S.135-4(e) reads as rewritten:

43 "(e) Creditable service at retirement on which the retirement allowance of a member  
44 shall be based shall consist of the membership service rendered by him since he last became a  
45 member, ~~and also if he has a prior service certificate which is in full force and effect, the~~  
46 ~~amount of service certified on his prior service certificate;~~ and if he has sick leave standing to  
47 his credit upon retirement on or after July 1, 1971, one month of credit for each 20 days or  
48 portion thereof, but not less than one hour; August 1, 2011, one month of credit for each 20  
49 days or portion of a day not less than one hour, but not more than 12 days of sick leave for each  
50 year of membership service or fraction thereof; sick leave shall not be counted in computing

1 creditable service for the purpose of determining eligibility for disability retirement or for a  
2 vested deferred allowance.

3 On and after July 1, 1971, a member whose account was closed on account of absence from  
4 service under the provisions of G.S. 135-3(3) and who subsequently returns to service for a  
5 period of five years, may thereafter repay in a lump sum the amount withdrawn plus regular  
6 interest thereon from the date of withdrawal through the year of repayment and thereby  
7 increase his creditable service by the amount of creditable service lost when his account was  
8 closed.

9 On and after July 1, 1973, a member whose account in the North Carolina Local  
10 Governmental Employees' Retirement System was closed on account of absence from service  
11 under the provisions of G.S. 128-24(1a) and who subsequently became or becomes a member  
12 of this System with credit for five years of service, may thereafter repay in a lump sum the  
13 amount withdrawn from the North Carolina Local Governmental Employees' Retirement  
14 System plus regular interest thereon from the date of withdrawal through the year of repayment  
15 and thereby increase his creditable service in this System by the amount of creditable service  
16 lost when his account was closed.

17 On or after July 1, 1979, a member who has obtained 60 months of aggregate service, or  
18 five years of membership service, as an employee of the North Carolina General Assembly,  
19 except legislators, participants in the Legislative Intern Program and pages, may make a lump  
20 sum payment together with interest, and an administrative fee for such service, to the Teachers'  
21 and State Employees' Retirement System of an amount equal to what he would have  
22 contributed had he been a member on his first day of employment.

23 On and after January 1, 1985, the creditable service of a member who was a member of the  
24 Law-Enforcement Officers' Retirement System at the time of the transfer of law-enforcement  
25 officers employed by the State from that System to this Retirement System and whose  
26 accumulated contributions are transferred from that System to this Retirement System, shall  
27 include service that was creditable in the Law-Enforcement Officers' Retirement System; and  
28 membership service with that System shall be membership service with this Retirement  
29 System; provided, notwithstanding any provision of this Article to the contrary, any inchoate or  
30 accrued rights of such a member to purchase creditable service for military service, withdrawn  
31 service and prior service under the rules and regulations of the Law-Enforcement Officers'  
32 Retirement System shall not be diminished and may be purchased as creditable service with  
33 this Retirement System under the same conditions which would have otherwise applied."

34 **SECTION 12.(b)** G.S. 128-26(e) reads as rewritten:

35 "(e) Creditable service at retirement on which the retirement allowance of a member  
36 shall be based shall consist of the membership service rendered by him since he last became a  
37 member, and also if he has a prior service certificate which is in full force and effect, the  
38 amount of the service certified on his prior service certificate; and if he has sick leave standing  
39 to his credit upon retirement on or after ~~July 1, 1971, one month of credit for each 20 days or~~  
40 ~~portion thereof, but not less than one hour;~~ August 1, 2011, one month of credit for each 20 days  
41 or portion of a day not less than one hour, but not more than 12 days of sick leave for each year  
42 of membership service or fraction thereof; sick leave shall not be counted in computing  
43 creditable service for the purpose of determining eligibility for disability retirement or for a  
44 vested deferred allowance.

45 On and after July 1, 1971, a member whose account was closed on account of absence from  
46 service under the provisions of G.S. 128-24(1a) and who subsequently returns to service for a  
47 period of five years, may thereafter repay the amount withdrawn plus regular interest thereon  
48 from the date of withdrawal through the year of repayment and thereby increase his creditable  
49 service by the amount of creditable service lost when this account was closed.

50 On and after July 1, 1973, a member whose account in the Teachers' and State Employees'  
51 Retirement System was closed on account of absence from service under the provisions of

1 G.S. 135-3(3) and who subsequently became or becomes a member of this System with credit  
2 for five years of service, may thereafter repay in a lump sum the amount withdrawn from the  
3 Teachers' and State Employees' Retirement System plus regular interest thereon from the date  
4 of withdrawal through the year of repayment and thereby increase his creditable service in this  
5 System by the amount of creditable service lost when his account was closed.

6 Notwithstanding any other provision of this Chapter, any member who entered service or  
7 was restored to service prior to July 1, 1982, and was excluded from membership service solely  
8 on account of having attained the age of 62 years, in accordance with former G.S. 128-24(3a),  
9 may purchase membership service credits for such excluded service by making a lump-sum  
10 payment equal to the contributions that would have been deducted pursuant to G.S. 128-30(b)  
11 had he been a member of the Retirement System, increased by interest calculated at a rate of  
12 seven percent (7%) per annum. Creditable service for unused sick leave shall be allowed only  
13 for sick leave accrued monthly during employment under a duly adopted sick leave policy and  
14 for which the member may be able to take credits and be paid for sick leave without restriction.

15 On and after January 1, 1986, the creditable service of a member who was a member of the  
16 Law Enforcement Officers' Retirement System at the time of the transfer of law enforcement  
17 officers employed by participating employers from that System to this Retirement System and  
18 whose accumulated contributions are transferred from that System to this Retirement System,  
19 includes service that was creditable in the Law Enforcement Officers' Retirement System; and  
20 membership service with that System is membership service with this Retirement System;  
21 provided, notwithstanding any provisions of this Article to the contrary, any inchoate or  
22 accrued rights of such a member to purchase creditable service for military service, withdrawn  
23 service and prior service under the rules and regulations of the Law Enforcement Officers'  
24 Retirement System may not be diminished and may be purchased as creditable service with this  
25 Retirement System under the same conditions that would have otherwise applied."

26 **SECTION 13.(a)** G.S. 135-1(7a) is amended by adding a new sub-subdivision to  
27 read:

28 "d. Notwithstanding the other provisions of this subdivision,  
29 compensation for any member who became a member on or after  
30 August 1, 2011, for any calendar year after 2011 in which employee  
31 or employer contributions are made and for which annual  
32 compensation is used for calculating any benefit under this Article  
33 shall not exceed the salary of the Governor as set in G.S. 147-11(a)  
34 for the beginning of the applicable calendar year."

35 **SECTION 13.(b)** G.S. 135-53(5) reads as rewritten:

36 "(5) "Compensation" shall mean all salaries and wages derived from public funds  
37 which are earned by a member of the Retirement System for his service as a  
38 justice or judge, or district attorney, or clerk of superior court, or public  
39 defender, or the Director of Indigent Defense Services. Effective July 1,  
40 2009, "compensation" also means payment of military differential wages.  
41 "Compensation" shall not include local supplementation as authorized under  
42 G.S. 7A-300.1 for Judicial Department employees.

43 Notwithstanding the foregoing provisions of this subdivision,  
44 compensation for any member who became a member on or after August 1,  
45 2011, for any calendar year after 2011 in which employee or employer  
46 contributions are made and for which annual compensation is used for  
47 calculating any benefit under this Article shall not exceed the salary of the  
48 Governor as set in G.S. 147-11(a) for the beginning of the applicable  
49 calendar year."

50 **SECTION 14.(a)** G.S. 135-1(5) reads as rewritten:

1           "(5) "Average final compensation" shall mean the average annual compensation  
2           of a member during the four consecutive calendar years of membership  
3           service producing the highest such average; but shall not include any  
4           compensation, as determined by the Board of Trustees, for the  
5           reimbursement of expenses or payments for housing or any other allowances  
6           whether or not classified as salary and ~~wages~~; wages; however, for members  
7           who became members on or after August 1, 2011, no portion of a salary  
8           increase in any of the years used to calculate average final compensation that  
9           is in excess of ten percent (10%) shall be included in the calculation. In the  
10          event a member is or has been in receipt of a benefit under the provisions of  
11          G.S. 135-105 or G.S. 135-106, the compensation used in the calculation of  
12          "average final compensation" shall be the higher of compensation of the  
13          member under the provisions of this Article or compensation used in  
14          calculating the payment of benefits under Article 6 of this Chapter as  
15          adjusted for percentage increases in the post disability benefit."

16          **SECTION 14.(b)** G.S. 135-53(2a) reads as rewritten:

17          "(2a) "Average final compensation" shall mean the average annual compensation  
18          of a member during the 48 consecutive calendar months of membership  
19          service producing the highest such ~~average~~; average; however, for members  
20          who became members on or after August 1, 2011, no portion of a salary  
21          increase in any of the years used to calculate average final compensation that  
22          is in excess of ten percent (10%) shall be included in the calculation."

23          **SECTION 14.(c)** G.S. 128-21(5) reads as rewritten:

24          "(5) "Average final compensation" shall mean the average annual compensation,  
25          not including any terminal payments for unused sick leave, of a member  
26          during the four consecutive calendar years of creditable service producing  
27          the highest such average; but shall not include any compensation, as  
28          determined by the Board of Trustees, for the reimbursement of expenses or  
29          payments for housing or any other allowances whether or not classified as  
30          salary and ~~wages~~; wages; however, for members who became members on or  
31          after August 1, 2011, no portion of a salary increase in any of the years used  
32          to calculate average final compensation that is in excess of ten percent (10%)  
33          shall be included in the calculation."

34          **SECTION 15.** G.S. 143-166.41 reads as rewritten:

35          "**§ 143-166.41. Special separation allowance.**

36          (a) Notwithstanding any other provision of law, every sworn law-enforcement officer  
37          as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,  
38          agency, or institution prior to August 1, 2011, and who qualifies under this section shall  
39          receive, beginning in the month in which he retires on a basic service retirement under the  
40          provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to  
41          eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of  
42          compensation most recently applicable to him for each year of creditable service. The  
43          allowance shall be paid in equal installments on the payroll frequency used by the employer. To  
44          qualify for the allowance the officer shall:

- 45               (1) Have (i) completed 30 or more years of creditable service or, (ii) have  
46               attained 55 years of age and completed five or more years of creditable  
47               service; and
- 48               (2) Not have attained 62 years of age; and
- 49               (3) Have completed at least five years of continuous service as a law  
50               enforcement officer as herein defined immediately preceding a service  
51               retirement. Any break in the continuous service required by this subsection

1 because of disability retirement or disability salary continuation benefits  
2 shall not adversely affect an officer's qualification to receive the allowance,  
3 provided the officer returns to service within 45 days after the disability  
4 benefits cease and is otherwise qualified to receive the allowance.

5 (a1) Notwithstanding any other provision of law, every sworn law-enforcement officer  
6 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,  
7 agency, or institution on or after and who qualifies under this section shall receive, beginning  
8 in the month in which he retires on a basic service retirement under the provisions of  
9 G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to eighty-five  
10 hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most  
11 recently applicable to him for each year of creditable service. The allowance shall be paid in  
12 equal installments on the payroll frequency used by the employer. To qualify for the allowance  
13 the officer shall:

14 (1) Have (i) completed 30 or more years of creditable service and have attained  
15 55 years of age and (ii) completed ten or more years of creditable service  
16 and have attained 60 years of age; and

17 (2) Not have attained 62 years of age; and

18 (3) Have completed at least ten years of continuous service as a law  
19 enforcement officer as herein defined immediately preceding a service  
20 retirement. Any break in the continuous service required by this subsection  
21 because of disability retirement or disability salary continuation benefits  
22 shall not adversely affect an officer's qualification to receive the allowance,  
23 provided the officer returns to service within 45 days after the disability  
24 benefits cease and is otherwise qualified to receive the allowance.

25 (b) As used in this section, "creditable service" means the service for which credit is  
26 allowed under the retirement system of which the officer is a member, provided that at least  
27 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

28 (c) Payment to a retired officer under the provisions of this section shall cease at the  
29 first of:

30 (1) The death of the officer;

31 (2) The last day of the month in which the officer attains 62 years of age; or

32 (3) The first day of reemployment by any State department, agency, or  
33 institution, except that this subdivision does not apply to an officer returning  
34 to State employment in a position exempt from the State Personnel Act in an  
35 agency other than the agency from which that officer retired.

36 (d) This section does not affect the benefits to which an individual may be entitled from  
37 State, federal, or private retirement systems. The benefits payable under this section shall not  
38 be subject to any increases in salary or retirement allowances that may be authorized by the  
39 General Assembly for employees of the State or retired employees of the State.

40 (e) The head of each State department, agency, or institution shall determine the  
41 eligibility of employees for the benefits provided herein.

42 (f) The Director of the Budget may authorize from time to time the transfer of funds  
43 within the budgets of each State department, agency, or institution necessary to carry out the  
44 purposes of this Article. These funds shall be taken from those appropriated to the department,  
45 agency, or institution for salaries and related fringe benefits.

46 (g) The head of each State department, agency, or institution shall make the payments  
47 set forth in subsection (a) to those persons certified under subsection (e) from funds available  
48 under subsection (f)."

49 **SECTION 16.(a)** Article 1 of Chapter 135 of the General Statutes is amended by  
50 adding a new section to read:

51 **"§ 135-18.11. Improper receipt of decedent's retirement benefit.**

1 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
2 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
3 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's  
4 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's  
5 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

6 **SECTION 16.(b)** Article 3 of Chapter 128 of the General Statutes is amended by  
7 adding a new section to read:

8 **"§ 128-38.5. Improper receipt of decedent's retirement benefit.**

9 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
10 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
11 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's  
12 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's  
13 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

14 **SECTION 16.(c)** Article 4 of Chapter 135 of the General Statutes is amended by  
15 adding a new section to read:

16 **"§ 135-75.2. Improper receipt of decedent's retirement benefit.**

17 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
18 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
19 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's  
20 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's  
21 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

22 **SECTION 16.(d)** Article 1A of Chapter 120 of the General Statutes is amended by  
23 adding a new section to read:

24 **"§ 120-4.34. Improper receipt of decedent's retirement benefit.**

25 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,  
26 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's  
27 retirement benefit and the person (i) knows that he or she is not entitled to the decedent's  
28 retirement benefit, (ii) receives the benefit at least two months after the date of the retiree's  
29 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

30 **SECTION 17.** This act becomes effective August 1, 2011.