

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 869

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

Sponsors: Senators Daniel, Newton, Carney; Bingham, Blake, Davis, Goolsby, Meredith, Preston, Stevens, Tucker, and Westmoreland.

Referred to: Insurance.

May 23, 2012

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

The General Assembly of North Carolina enacts:

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

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

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

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

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement ~~officer~~ officer, an eligible fireman as defined in G.S. 58-86-25, or an eligible rescue squad worker as defined in G.S. 58-86-30 and becomes incapacitated for duty as the natural and proximate result of injuries incurred while in the actual performance of his or her duties, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.



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.