

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1165

Short Title: Firefighters' Benefits.

(Public)

Sponsors: Senator Ballance.

Referred to: Pensions & Retirement and Insurance.

May 19, 1998

A BILL TO BE ENTITLED

1 AN ACT TO DEFINE A PROFESSIONAL FIREFIGHTERS' BENEFITS ACCRUAL
2 RATE FOR MEMBERS AND BENEFICIARIES OF THE LOCAL
3 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 128-21 is amended by adding a new subdivision to read:

7 "(17a) 'Professional firefighter' means a person (i) who is a full-time paid
8 employee of an employer maintaining a fire department certified by the
9 North Carolina Department of Insurance, and (ii) who is actively
10 serving in a position with assigned primary duties and responsibilities
11 for the prevention, detection, and suppression of fire."

12 Section 2. G.S. 128-24(5) reads as rewritten:

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

16 a. Notwithstanding any other provision of this Chapter, any
17 member who separates from service prior to the attainment of the
18 age of 60 years for any reason other than death or retirement for
19 disability as provided in G.S. 128-27(c), after completing 15 or
20 more years of creditable service, and who leaves his total

1 accumulated contributions in said System shall have the right to
 2 retire on a deferred retirement allowance upon attaining the age
 3 of 60 years; provided that such member may retire only upon
 4 written application to the Board of Trustees setting forth at what
 5 time, not less than one day nor more than 90 days subsequent to
 6 the execution and filing thereof, he desires to be retired; and
 7 further provided that in the case of a member who so separates
 8 from service on or after July 1, 1967, the aforesated requirement
 9 of 15 or more years of creditable service shall be reduced to 12 or
 10 more years of creditable service; and further provided that in the
 11 case of a member who so separates from service on or after July
 12 1, 1971, or whose account is active on July 1, 1971, the
 13 aforesated requirement of 12 or more years of creditable service
 14 shall be reduced to five or more years of creditable service. Such
 15 deferred retirement allowance shall be computed in accordance
 16 with the service retirement provisions of this Article pertaining to
 17 a member who is not a law enforcement officer or eligible former
 18 law enforcement officer.

19 b. In lieu of the benefits provided in paragraph a of this subdivision,
 20 any member who separates from service prior to the attainment
 21 of the age of 60 years, for any reason other than death or
 22 retirement for disability as provided in G.S. 128-27(c), after
 23 completing 20 or more years of creditable service, and who
 24 leaves his total accumulated contributions in said System may
 25 elect to retire on an early retirement allowance upon attaining the
 26 age of 50 years or at any time thereafter; provided that such
 27 member may so retire only upon written application to the Board
 28 of Trustees setting forth at what time, not less than one day nor
 29 more than 90 days subsequent to the execution and filing thereof,
 30 he desires to be retired. Such early retirement allowance so
 31 elected shall be equal to the deferred retirement allowance
 32 otherwise payable at the attainment of the age of 60 years
 33 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

1 accumulated contributions in said System, may elect to retire on
2 a deferred retirement allowance upon attaining the age of 50
3 years or any time thereafter; provided that such member may so
4 retire only upon written application to the Board of Trustees
5 setting forth at what time, not less than one day nor more than 90
6 days subsequent to the execution and filing thereof, he desires to
7 be retired. Such deferred retirement allowance shall be computed
8 in accordance with the service retirement provisions of this
9 Article pertaining to a member who is not a law enforcement
10 officer or an eligible former law enforcement officer.

11 c. Should a beneficiary who retired on an early or service
12 retirement allowance be reemployed, or otherwise engaged to
13 perform services, by an employer participating in the Retirement
14 System on a part-time, temporary, interim, or on fee-for-service
15 basis, whether contractual or otherwise, and if such beneficiary
16 earns an amount in any calendar year which exceeds fifty percent
17 (50%) of the reported compensation, excluding terminal
18 payments, during the 12 months of service preceding the
19 effective date of retirement, or twenty thousand dollars
20 (\$20,000), whichever is greater, as hereinafter indexed, then the
21 retirement allowance shall be suspended as of the first day of the
22 month following the month in which the reemployment earnings
23 exceed the amount above, for the balance of the calendar year.
24 The retirement allowance of the beneficiary shall be reinstated as
25 of January 1 of each year following suspension. The amount that
26 may be earned before suspension shall be increased on January 1
27 of each year by the ratio of the Consumer Price Index to the
28 Index one year earlier, calculated to the nearest tenth of a percent
29 (1/10 of 1%).

30 d. Should a beneficiary who retired on an early or service
31 retirement allowance be restored to service as an employee, then
32 the retirement allowance shall cease as of the first day of the
33 month following the month in which the beneficiary is restored
34 to service and the beneficiary shall become a member of the
35 Retirement System and shall contribute thereafter as allowed by
36 law at the uniform contribution payable by all members.

37 Upon his subsequent retirement, he shall be paid a retirement
38 allowance determined as follows:

39 1. For a member who earns at least three years' membership
40 service after restoration to service, the retirement
41 allowance shall be computed on the basis of his
42 compensation and service before and after the period of
43 prior retirement without restriction; provided, that if the

1 prior allowance was based on a social security leveling
2 payment option, the allowance shall be adjusted
3 actuarially for the difference between the amount received
4 under the optional payment and what would have been
5 paid if the retirement allowance had been paid without
6 optional modification.

- 7 2. For a member who does not earn three years' membership
8 service after restoration to service, the retirement
9 allowance shall be equal to the sum of the retirement
10 allowance to which he would have been entitled had he
11 not been restored to service, without modification of the
12 election of an optional allowance previously made, and
13 the retirement allowance that results from service earned
14 since being restored to service; provided, that if the prior
15 retirement allowance was based on a social security
16 leveling payment option, the prior allowance shall be
17 adjusted actuarially for the difference between the amount
18 that would have been paid for each month had the
19 payment not been suspended and what would have been
20 paid if the retirement allowance had been paid without
21 optional modification."

22 Section 3. G.S. 128-27(a) reads as rewritten:

23 "(a) Service Retirement Benefits. –

- 24 (1) Any member may retire upon written application to the Board of
25 Trustees setting forth at what time, as of the first day of a calendar
26 month, not less than one day nor more than 90 days subsequent to the
27 execution and filing thereof, he desires to be retired: Provided, that the
28 said member at the time so specified for his retirement shall have
29 attained the age of 60 years and have at least five years of creditable
30 service or shall have completed 30 years of creditable service, or if a
31 ~~fireman, he professional firefighter,~~ the member shall have attained the
32 age of 55-50 years and have at least five-27 years of creditable service.
33 service, provided that the last five years of creditable service is as a
34 professional firefighter.
- 35 (2) Repealed by Session Laws 1983 (Regular Session Laws 1984), c. 1019,
36 s. 1.
- 37 (3) Repealed by Session Laws 1971, c. 325, s. 12.
- 38 (4) Any member who was in service October 8, 1981, who had attained 60
39 years of age, may retire upon written application to the Board of
40 Trustees setting forth at what time, as of the first day of a calendar
41 month, not less than one day nor more than 90 days subsequent to the
42 execution and filing thereof, he desires to be retired.

- 1 (5) Any member who is a law enforcement ~~officer~~, officer or professional
2 firefighter, and who attains age 50 and completes 15 or more years of
3 creditable service in this capacity or who attains age 55 and completes
4 five or more years of creditable service in this capacity, may retire upon
5 written application to the Board of Trustees setting forth at what time, as
6 of the first day of a calendar month, not less than one day nor more than
7 90 days subsequent to the execution and filing thereof, ~~he~~ the member
8 desires to be retired; provided, also, any member who has met the
9 conditions required by this ~~subdivision~~ section but does not retire, and
10 later becomes an employee other than as a law enforcement ~~officer~~,
11 officer or professional firefighter, continues to have the right to
12 commence retirement."

13 Section 4. G.S. 128-27 is amended by adding a new subsection to read:

14 "(b17) Service Retirement Allowance of Professional Firefighters Retiring on or
15 After July 1, 1998. – Upon retirement from service in accordance with subsection (a) or
16 (a1) above, on or after July 1, 1998, a member who is a professional firefighter or an
17 eligible former professional firefighter shall receive the following service retirement
18 allowance:

- 19 (1) If the member's service retirement date occurs on or after his 55th
20 birthday, and completion of five years of creditable service as a
21 professional firefighter, or after his 50th birthday, and the completion of
22 27 years of creditable service, the allowance shall be equal to the sum
23 of:
- 24 a. One and seventy-six hundredths percent (1.76%) of the member's
25 average final compensation, multiplied by the number of years of
26 creditable service earned by the member in service other than as
27 a professional firefighter and for service as a professional
28 firefighter earned prior to July 1, 1988, plus
- 29 b. Two and fifty hundredths percent (2.50%) of the member's
30 average final compensation, multiplied by the number of years of
31 creditable service earned as a professional firefighter on or after
32 July 1, 1988.
- 33 (2) If the member's service retirement date occurs on or after his 50th
34 birthday and before his 55th birthday with 15 or more years of
35 creditable service as a professional firefighter and prior to the
36 completion of 27 years of creditable service, his retirement allowance
37 shall be equal to the greater of:
- 38 a. The service retirement allowance payable under G.S. 128-
39 27(b17)(1) reduced by one-third of one percent (1/3 of 1%)
40 thereof for each month by which his retirement date precedes the
41 first day of the month coincident with or next following the
42 month the member would have attained his 55th birthday; or

1 b. The service retirement allowance as computed under G.S. 128-
2 27(b17)(1) reduced by five percent (5%) times the difference
3 between 27 years and his creditable service at retirement."

4 Section 5. G.S. 128-30(d) is amended by adding a new subdivision to read:

5 "(10) Notwithstanding the foregoing provisions of this subsection, beginning
6 with the December 31, 1997, valuation, the actuary shall determine an
7 additional 'accrued liability contribution' on account of each employer's
8 professional firefighters. This contribution shall be that percentage of
9 the professional firefighters' compensation necessary to liquidate the
10 'existing unfunded accrued liability' over a period of years to be
11 determined by the Board of Trustees. The 'existing unfunded accrued
12 liability' for each employer shall be equal to the accrued liability for
13 additional benefits payable to each employer's professional firefighters
14 who are members of the Retirement System on June 30, 1998. The
15 'accrued liability contribution' determined on the basis of this
16 subdivision shall be added to that determined under subdivisions (3) and
17 (9) of this subsection and shall be included in the total amount payable
18 under subdivision (5) of this subsection."

19 Section 6. Nothing in this act shall diminish any rights that a member of the
20 Local Governmental Employees' Retirement System possessed before the effective date
21 of this act to retire prior to age 50 with 30 years of creditable service; however, the
22 benefit accrual rate will be the same as that applied to other members who are not law
23 enforcement officers or professional firefighters.

24 Section 7. G.S. 105-228.5(d) reads as rewritten:

25 "(d) Tax Rates; Disposition. –

26 (1) Workers Compensation. – The tax rate to be applied to gross premiums,
27 or the equivalent thereof in the case of self-insurers, collected on
28 contracts applicable to liabilities under the Workers' Compensation Act
29 shall be two and five-tenths percent (2.5%). The net proceeds shall be
30 credited to the General Fund.

31 (2) Other Insurance Contracts. – The tax rate to be applied to gross
32 premiums collected on all other insurance contracts issued by insurers
33 shall be one and nine-tenths percent (1.9%). The net proceeds shall be
34 credited to the General Fund.

35 (3) Additional Statewide Fire and Lightning Rate. – An additional tax shall
36 be applied to amounts collected on contracts of insurance applicable to
37 fire and lightning coverage, except in the case of marine and automobile
38 policies, at the rate of ~~one and thirty-three hundredths percent (1.33%).~~
39 ~~Twenty-five percent (25%)~~ four and seventeen hundredths percent
40 (4.17%). Eight percent (8%) of the net proceeds of this additional tax
41 shall be deposited in the Volunteer Fire Department Fund established in
42 Article 87 of Chapter 58 of the General Statutes. The remaining net
43 proceeds shall be credited to the General Fund.

1 (4) Additional Local Fire and Lightning Rate. – An additional tax shall be
2 applied to amounts collected on contracts of insurance applicable to fire
3 and lightning coverage within fire districts at the rate of one-half of one
4 percent (1/2 of 1%). The net proceeds shall be credited to the
5 Department of Insurance for disbursement pursuant to G.S. 58-84-25.

6 (5) Article 65 Corporations. – The tax rate to be applied to gross premiums
7 and/or gross collections from membership dues, exclusive of receipts
8 from cost plus plans, received by Article 65 corporations shall be one-
9 half of one percent (1/2 of 1%). The net proceeds shall be credited to the
10 General Fund."

11 Section 8. This act becomes effective July 1, 1998, and applies to persons
12 retiring on or after that date.