

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1022

Short Title: 28-Year Retirement/Retention Incentive.

(Public)

Sponsors: Representatives Goodwin; and Buchanan.

Referred to: Pensions and Retirement.

April 9, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW MEMBERS OF THE TEACHERS' AND STATE
3 EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED
4 BENEFITS AFTER TWENTY-EIGHT YEARS OF SERVICE AND TO
5 ESTABLISH A RETENTION INCENTIVE PROGRAM FOR MEMBERS OF THE
6 RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-5(b18) reads as rewritten:

9 "~~(b18) Service Retirement Allowance of Members Retiring on or After July 1, 2000-~~
10 ~~2000, but Before July 1, 2001.~~— Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2000, but before July 1, 2001, a member
12 shall receive the following service retirement ~~allowance~~: allowance:

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

16 a. If the member's service retirement date occurs on or after his
17 55th birthday, and completion of five years of creditable service
18 as a law enforcement officer, or after the completion of 30 years
19 of creditable service, the allowance shall be equal to one and
20 eighty-one hundredths percent (1.81%) of his average final
21 compensation, multiplied by the number of years of his
22 creditable service.

23 b. If the member's service retirement date occurs on or after his
24 50th birthday and before his 55th birthday with 15 or more
25 years of creditable service as a law enforcement officer and
26 prior to the completion of 30 years of creditable service, his
27 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance payable under G.S.
2 135-5(b18)(1)a. reduced by one-third of one percent (1/3
3 of 1%) thereof for each month by which his retirement
4 date precedes the first day of the month coincident with
5 or next following the month the member would have
6 attained his 55th birthday; or
 - 7 2. The service retirement allowance as computed under
8 G.S. 135-5(b18)(1)a. reduced by five percent (5%) times
9 the difference between 30 years and his creditable
10 service at retirement.
- 11 (2) A member who is not a law enforcement officer or an eligible former
12 law enforcement officer shall receive a service retirement allowance
13 computed as follows:
- 14 a. If the member's service retirement date occurs on or after his
15 65th birthday upon the completion of five years of membership
16 service or after the completion of 30 years of creditable service
17 or on or after his 60th birthday upon the completion of 25 years
18 of creditable service, the allowance shall be equal to one and
19 eighty-one hundredths percent (1.81%) of his average final
20 compensation, multiplied by the number of years of creditable
21 service.
 - 22 b. If the member's service retirement date occurs after his 60th
23 birthday and before his 65th birthday and prior to his
24 completion of 25 years or more of creditable service, his
25 retirement allowance shall be computed as in G.S.
26 135-5(b18)(2)a. but shall be reduced by one-quarter of one
27 percent (1/4 of 1%) thereof for each month by which his
28 retirement date precedes the first day of the month coincident
29 with or next following his 65th birthday.
 - 30 c. If the member's early service retirement date occurs on or after
31 his 50th birthday and before his 60th birthday and after
32 completion of 20 years of creditable service but prior to the
33 completion of 30 years of creditable service, his early service
34 retirement allowance shall be equal to the greater of:
 - 35 1. The service retirement allowance as computed under
36 G.S. 135-5(b18)(2)a. but reduced by the sum of
37 five-twelfths of one percent (5/12 of 1%) thereof for
38 each month by which his retirement date precedes the
39 first day of the month coincident with or next following
40 the month the member would have attained his 60th
41 birthday, plus one-quarter of one percent (1/4 of 1%)
42 thereof for each month by which his 60th birthday
43 precedes the first day of the month coincident with or
44 next following his 65th birthday; or

- 1 2. The service retirement allowance as computed under
2 G.S. 135-5(b18)(2)a. reduced by five percent (5%) times
3 the difference between 30 years and his creditable
4 service at retirement; or
5 3. If the member's creditable service commenced prior to
6 July 1, 1994, the service retirement allowance equal to
7 the actuarial equivalent of the allowance payable at the
8 age of 60 years as computed in G.S. 135-5(b18)b.
9 d. Notwithstanding the foregoing provisions, any member whose
10 creditable service commenced prior to July 1, 1963, shall not
11 receive less than the benefit provided by G.S. 135-5(b)."

12 **SECTION 2.** G.S. 135-5 is amended by adding a new subsection to read:

13 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2001.
14 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
15 after July 1, 2001, a member shall receive the following service retirement allowance:

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

19 a. If the member's service retirement date occurs on or after his
20 55th birthday, and completion of five years of creditable service
21 as a law enforcement officer, or after the completion of 28 years
22 of creditable service, the allowance shall be equal to one and
23 eighty-one hundredths percent (1.81%) of his average final
24 compensation, multiplied by the number of years of his
25 creditable service.

26 b. If the member's service retirement date occurs on or after his
27 50th birthday and before his 55th birthday with 15 or more
28 years of creditable service as a law enforcement officer and
29 prior to the completion of 28 years of creditable service, his
30 retirement allowance shall be equal to the greater of:

31 1. The service retirement allowance payable under G.S.
32 135-5(b19)(1)a. reduced by one-third of one percent (1/3
33 of 1%) thereof for each month by which his retirement
34 date precedes the first day of the month coincident with
35 or next following the month the member would have
36 attained his 55th birthday; or

37 2. The service retirement allowance as computed under
38 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times
39 the difference between 28 years and his creditable
40 service at retirement.

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

- 1 a. If the member's service retirement date occurs on or after his
2 65th birthday upon the completion of five years of membership
3 service or after the completion of 28 years of creditable service
4 or on or after his 60th birthday upon the completion of 25 years
5 of creditable service, the allowance shall be equal to one and
6 eighty-one hundredths percent (1.81%) of his average final
7 compensation, multiplied by the number of years of creditable
8 service.
- 9 b. If the member's service retirement date occurs after his 60th
10 birthday and before his 65th birthday and prior to his
11 completion of 25 years or more of creditable service, his
12 retirement allowance shall be computed as in G.S. 135-
13 5(b19)(2)a. but shall be reduced by one-quarter of one percent
14 (1/4 of 1%) thereof for each month by which his retirement date
15 precedes the first day of the month coincident with or next
16 following his 65th birthday.
- 17 c. If the member's early service retirement date occurs on or after
18 his 50th birthday and before his 60th birthday and after
19 completion of 20 years of creditable service but prior to the
20 completion of 28 years of creditable service, his early service
21 retirement allowance shall be equal to the greater of:
- 22 1. The service retirement allowance as computed under
23 G.S. 135-5(b19)(2)a. but reduced by the sum of five-
24 twelfths of one percent (5/12 of 1%) thereof for each
25 month by which his retirement date precedes the first day
26 of the month coincident with or next following the
27 month the member would have attained his 60th
28 birthday, plus one-quarter of one percent (1/4 of 1%)
29 thereof for each month by which his 60th birthday
30 precedes the first day of the month coincident with or
31 next following his 65th birthday; or
- 32 2. The service retirement allowance as computed under
33 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times
34 the difference between 28 years and his creditable
35 service at retirement; or
- 36 3. If the member's creditable service commenced prior to
37 July 1, 1994, the service retirement allowance equal to
38 the actuarial equivalent of the allowance payable at the
39 age of 60 years as computed in G.S. 135-5(b19)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1963, shall not
42 receive less than the benefit provided by G.S. 135-5(b)."

43 **SECTION 3.** G.S. 135-5(m) reads as rewritten:

1 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
2 principal beneficiary designated to receive a return of accumulated contributions shall
3 have the right to elect to receive in lieu thereof the reduced retirement allowance
4 provided by Option 2 of subsection (g) above computed by assuming that the member
5 had retired on the first day of the month following the date of his death, provided that
6 the following conditions apply:

- 7 (1) a. The member had attained such age and/or creditable service to
8 be eligible to commence retirement with an early or service
9 retirement allowance, or
10 b. The member had obtained 20 years of creditable service in
11 which case the retirement allowance shall be computed in
12 accordance with ~~G.S. 135-5(b18)(1)b.~~ G.S. 135-5(b19)(1)b. or
13 ~~G.S. 135-5(b18)(2)c.,~~ G.S. 135-5(b19)(2)c., notwithstanding the
14 requirement of obtaining age 50.
15 (2) The member had designated as the principal beneficiary to receive a
16 return of his accumulated contributions one and only one person who
17 was living at the time of his death.
18 (3) The member had not instructed the Board of Trustees in writing that he
19 did not wish the provisions of this subsection to apply.

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

30 **SECTION 4.** Article 1 of Chapter 135 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 135-18.9. Retention Incentive Program.**

33 (a) A member who is eligible for service retirement under this Chapter and
34 complies with the requirements of this section may elect to participate in the Teacher
35 and State Employee Retention Incentive Program. A member electing to participate in
36 the program retires for purposes of the System, and the member's normal retirement
37 benefit is calculated on the basis of the member's average final compensation and
38 service credit at the time the program period begins. The program participant shall agree
39 to continue employment with an employer participating in the System for a program
40 period, not to exceed five years. The member shall notify the System before the
41 beginning of the program period. Participation in the program does not guarantee
42 employment for the specified program period.

43 (b) During the specified program period, receipt of the member's normal
44 retirement benefit is deferred. The member's deferred monthly payment shall be placed

1 in the System's trust fund on behalf of the member. No interest shall be paid on the
2 member's deferred monthly benefit placed in the trust fund during the specified program
3 period.

4 (c) During the specified program period, the employer shall pay to the System
5 the employer contribution for active members prescribed by law with respect to any
6 program participant it employs, regardless of whether the program participant is a part-
7 time employee, a temporary employee, or a full-time employee. If an employer who is
8 obligated to the System pursuant to this subsection fails to pay the amount due, as
9 determined by the System, the amount shall be deducted from any funds payable to the
10 employer by the State.

11 (d) A program participant is retired from the System as of the beginning of the
12 program period. A program participant makes no further employee contributions to the
13 System, accrues no service credit during the program period, and is not eligible to
14 receive group life insurance benefits or disability retirement benefits. Accrued annual
15 leave and sick leave used in any manner in the calculation of the program participant's
16 retirement benefits is deducted from the amount of that leave accrued by the participant.

17 (e) A program participant is retired for retirement purposes only. For
18 employment purposes, a program participant is considered to be an active employee,
19 retaining all other rights and benefits of an active employee and is not subject to the
20 earnings limitation of G.S. 135-3(8)c. during the program period.

21 (f) Upon termination of employment either during or at the end of the program
22 period, the member shall receive the balance in the member's program account by
23 electing one of the following distribution alternatives:

24 (1) A lump-sum distribution, paying appropriate taxes; or

25 (2) To the extent permitted by law, a tax-sheltered rollover into an eligible
26 plan;

27 The member also shall receive the previously determined normal retirement benefits
28 based upon the member's average final compensation and service credit at the time the
29 program period began, plus any applicable cost-of-living increases declared during the
30 program period. The program participant is thereafter subject to the earning limitation
31 of G.S. 135-3(8)c.

32 (g) If a program participant dies during the specified program period, the
33 member's designated beneficiary shall receive the balance in the member's program
34 account by electing one of the distribution alternatives set forth in subsection (f) of this
35 section. In accordance with the form of System benefit selected by the member at the
36 time the program commenced, the member's designated beneficiary shall receive either
37 a survivor benefit or a refund of contributions from the member's System account.

38 (h) If a program participant fails to terminate employment with an employer
39 participating in the System within one month after the end of the specified program
40 period, the member shall receive the previously determined normal retirement benefits
41 based upon the member's average final compensation and service credit at the time the
42 program began, plus any applicable cost-of-living increases declared during the
43 program period. The program participant is thereafter subject to the earning limitation
44 of G.S. 135-3(8)c. The program participant also shall receive the balance in the

1 member's program account by selecting one of the distribution alternatives set forth in
2 subsection (f) of this section.

3 (i) A member is not eligible to participate in the program if the member has
4 participated previously in and received a benefit under this program or any other state
5 retirement system."

6 **SECTION 5.** Section 4 of this act becomes effective July 1, 2001, and
7 applies to persons eligible to retire from the Teachers' and State Employees' Retirement
8 System on or after that date. The remainder of this act becomes effective July 1, 2001.