

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1276

Short Title: Remove Restriction/LEO Disability Benefits. (Public)

Sponsors: Representatives T. Harrell, Thomas, Tillis (Primary Sponsors); Braxton, Brown, Bryant, Coates, Cotham, Dollar, Faison, Fisher, Frye, Glazier, Hall, J. Harrell, Harrison, Hurley, Insko, Luebke, Martin, McLawhorn, Moore, Ross, Tarleton, E. Warren, and Wray.

Referred to: Pensions and Retirement, if favorable, Appropriations.

April 3, 2007

A BILL TO BE ENTITLED

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2 AN ACT TO REMOVE THE REQUIREMENT THAT LAW ENFORCEMENT
3 OFFICERS HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO
4 QUALIFY FOR DISABILITY RETIREMENT BENEFITS UNDER THE LOCAL
5 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM FOR INJURIES
6 INCURRED IN THE LINE OF DUTY.

7 The General Assembly of North Carolina enacts:

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

9 "(c) Disability Retirement Benefits. – Upon the application of a member or of his
10 employer, any member who has had five or more years of creditable service may be
11 retired by the Board of Trustees, on the first day of any calendar month, not less than
12 one day nor more than 90 days next following the date of filing such application, on a
13 disability retirement allowance: Provided, that the medical board, after a medical
14 examination of such member, shall certify that such member is mentally or physically
15 incapacitated for the further performance of duty, that such incapacity was incurred at
16 the time of active employment and has been continuous thereafter, that such incapacity
17 is likely to be permanent, and that such member should be retired; Provided further the
18 medical board shall determine if the member is able to engage in gainful employment
19 and, if so, the member may still be retired and the disability retirement allowance as a
20 result thereof shall be reduced as in subsection (e) below. Provided further, that the
21 Medical Board shall not certify any member as disabled who:

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

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

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

11 Notwithstanding the foregoing to the contrary, any beneficiary who commenced
12 retirement with an early or service retirement benefit has the right, within three years of
13 his retirement, to convert to an allowance with disability retirement benefits without
14 modification of any election of optional allowance previously made; provided, the
15 beneficiary would have met all applicable requirements for disability retirement benefits
16 while still in service as a member. The allowance on account of disability retirement
17 benefits to the beneficiary shall be retroactive to the effective date of early or service
18 retirement.

19 Notwithstanding the foregoing, effective April 1, 1991, the surviving designated
20 beneficiary of a deceased member who met all other requirements for disability
21 retirement benefits, except whose death occurred before the first day of the calendar
22 month in which the member's disability retirement allowance was to be due and
23 payable, may elect to receive the reduced retirement allowance provided by a one
24 hundred percent (100%) joint and survivor payment option in lieu of a return of
25 accumulated contributions, provided the following conditions apply:

- 26 (1) The member had designated as the principal beneficiary, to receive a
27 return of accumulated contributions at the time of his death, one and
28 only one person, and
- 29 (2) The member had not instructed the Board of Trustees in writing that he
30 did not wish the provision of this subsection to apply."

31 **SECTION 2.** This act becomes effective July 1, 2007.