

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009**

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**SENATE BILL 557**

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

Sponsors: Senators Foriest; Atwater, Hoyle, Malone, McKissick, Snow, and Swindell.

Referred to: Pensions & Retirement & Aging.

March 12, 2009

A BILL TO BE ENTITLED

AN ACT TO REMOVE THE REQUIREMENT THAT LAW ENFORCEMENT OFFICERS 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 90 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 or a fireman as defined in G.S. 58-86-25 or rescue squad worker as defined in G.S. 58-86-30 ~~and who has had one year or more of creditable service~~ and becomes incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.

Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement with an early or service retirement benefit has the right, within three years of his retirement, to



1 convert to an allowance with disability retirement benefits without modification of any election  
2 of optional allowance previously made; provided, the beneficiary would have met all applicable  
3 requirements for disability retirement benefits while still in service as a member. The allowance  
4 on account of disability retirement benefits to the beneficiary shall be retroactive to the  
5 effective date of early or service retirement.

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

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

18 **SECTION 2.** This act becomes effective July 1, 2009.