

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 974
HOUSE BILL 1034

AN ACT TO AMEND THE DEATH BENEFIT PLAN PROVIDED BY THE LOCAL
GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(l) is amended to read:

"(l) Death Benefit Plan. — There is hereby created a Group Life Insurance Plan (hereinafter called the 'Plan') which is established as an employee welfare benefit plan that is separate and apart from the Retirement System and under which the members of the Retirement System shall participate and be eligible for group life insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in their capacity as trustees under the Group Life Insurance Plan, of the death, in service, of a member who had completed at least one full calendar year of membership in the Retirement System, there shall be paid to such person as he shall have nominated by written designation duly acknowledged and filed with the Board of Trustees, if such person is living at the time of the member's death, otherwise to the member's legal representatives, a death benefit. Such death benefit shall be equal to the greater of:

- (1) the compensation on which contributions were made by the member during the calendar year preceding the year in which his death occurs, or
- (2) the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his death occurs, or
- (3) if the member had applied for and was entitled to receive a disability retirement allowance under the System and such disability retirement allowance had not been discontinued or revoked within 366 days of his last date of actual service, the compensation on which contributions were made by the member during the 12-month period ending on the last day of the month preceding the month in which his last day of actual service occurred; subject to a maximum of twenty thousand dollars (\$20,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of this Plan, a member shall be deemed to be in service at the date of his death if his last day of actual service occurred not more than 90 days before the date of his death or if his last day of actual service occurred not more than 366 days before the date of his death if such member during said one-year period had applied for and was entitled to receive a disability retirement allowance under the System, provided said disability retirement allowance had not been discontinued or revoked during said one-year period.

The death benefit provided in this subsection shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

- (1) after June 30, 1969 and after he has attained age 70; or
- (2) after December 31, 1969 and after he has attained age 69; or

- (3) after December 31, 1970 and after he has attained age 68; or
- (4) after December 31, 1971 and after he has attained age 67; or
- (5) after December 31, 1972 and after he has attained age 66; or
- (6) after December 31, 1973 and after he has attained age 65; or
- (7) after December 31, 1978 and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

- (1) For the purpose of determining eligibility only, in this subsection 'calendar year' shall mean any period of 12 consecutive months. For all other purposes in this subsection 'calendar year' shall mean the 12 months beginning January 1 and ending December 31.
- (2) Last day of actual service shall be:
 - a. when employment has been terminated, the last day the member actually worked.
 - b. when employment has not been terminated, the date on which an absent member's sick and annual leave expire.
- (3) For a period when a member is on leave of absence, his status with respect to the death benefit will be determined by the provisions of G.S. 128-26(g).
- (4) A member on leave of absence from his position as a local governmental employee for the purpose of serving as a member or officer of the General Assembly shall be deemed to be in service during sessions of the General Assembly and thereby covered by the provisions of the death benefit, if applicable. The amount of the death benefit for such member shall be the equivalent of the salary to which the member would have been entitled as a local governmental employee during the 12-month period immediately prior to the month in which death occurred, not to exceed twenty thousand dollars (\$20,000).

The provisions of the Retirement System pertaining to Administration, G.S. 128-28, and Management of fund, G.S. 128-29, are hereby made applicable to the Plan."

Sec. 2. This act shall become effective July 1, 1979.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.