

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 264*

Short Title: Sliding Retirement Exclusion.

(Public)

Sponsors: Senators Winner, Plyler, and Rauch.

Referred to: Finance.

February 23, 1989

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A GRADUATED EXCLUSION FOR RETIREMENT BENEFITS THAT DECREASES AS INCOME EXCEEDS FIFTEEN THOUSAND DOLLARS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-141(b) is amended by adding a new subdivision to read:

"(31) a. Amounts received in lump sum or monthly payments of retirement benefits by retirees whose modified adjusted gross income does not exceed fifteen thousand dollars (\$15,000) as follows:

1. One hundred percent (100%) of the first six thousand dollars (\$6,000) received;
2. Seventy-five percent (75%) of the amount received above six thousand dollars (\$6,000) and up to seven thousand five hundred dollars (\$7,500); and
3. Fifty percent (50%) of the amount received above seven thousand five hundred dollars (\$7,500) and up to nine thousand dollars (\$9,000).

b. Amounts received in lump sum or monthly payments of retirement benefits by retirees whose modified adjusted gross income exceeds fifteen thousand dollars (\$15,000) but does not exceed thirty thousand dollars (\$30,000) as follows:

1. If modified adjusted gross income exceeds between fifteen thousand dollars (\$15,000) and does not exceed twenty

1 thousand dollars (\$20,000), the amount of the exclusion as
 2 would be determined under the schedule above is reduced
 3 twenty-five percent (25%);

4 2. If modified adjusted gross income exceeds twenty thousand
 5 dollars (\$20,000) and does not exceed twenty-five thousand
 6 dollars (\$25,000), the amount of the exclusion as would be
 7 determined under the schedule above is reduced fifty percent
 8 (50%); and,

9 3. If modified adjusted gross income exceeds twenty-five
 10 thousand dollars (\$25,000) and does not exceed thirty thousand
 11 dollars (\$30,000), the amount of the exclusion as would be
 12 determined under the schedule above is reduced seventy-five
 13 percent (75%).

14 c. For purposes of this subdivision, the term 'modified adjusted gross
 15 income' means adjusted gross income:

16 1. Determined without regard to this subdivision;

17 2. Increased by the amount of social security benefits received by
 18 the taxpayer during the taxable year;

19 3. Increased by the amount of interest received or accrued by the
 20 taxpayer during the taxable year which is exempt from tax; and,

21 4. Increased by the amount of retirement benefits received by the
 22 taxpayer during the taxable year."

23 Sec. 2. G.S. 105-141(b)(8), (13), (14), and (18) are repealed.

24 Sec. 3. G.S. 118-49 reads as rewritten:

25 **"§ 118-49. Exemptions of pensions from attachment; rights nonassignable.**

26 Except for the applications of the provisions of G.S. 110-136, and in connection with
 27 a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not
 28 subject to attachment, garnishments or judgments against the fireman or rescue squad
 29 worker entitled to them, nor are any rights in the fund or the pensions or benefits
 30 ~~assignable nor are the pensions subject to any State or municipal tax. assignable."~~

31 Sec. 4. G.S. 120-4.29 reads as rewritten:

32 **"§ 120-4.29. Exemption from taxes, garnishment, attachment.**

33 Except for the applications of the provisions of G. S. 110-136, and in connection
 34 with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
 35 pension, annuity, or retirement allowance, to the return of contributions, or to the receipt
 36 of the pension, annuity or retirement allowance itself, any optional benefit or any other
 37 right accrued or accruing to any person under the provisions of this Article, and the
 38 moneys in the various funds created by this Article, ~~are exempt from any State or~~
 39 ~~municipal tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other
 40 process whatsoever, and shall be unassignable except as this Article specifically
 41 provides. Notwithstanding any provisions to the contrary, any overpayment of benefits
 42 to a member in a State-administered retirement system or Disability Salary Continuation
 43 Plan may be offset against any retirement allowance, return of contributions or any

1 other right accruing under this Chapter to the same person, the person's estate, or
2 designated beneficiary.”

3 Sec. 5. G.S. 127A-40(e) is repealed.

4 Sec. 6. G.S. 128-31 reads as rewritten:

5 **"§ 128-31. Exemptions from execution.**

6 Except for the applications of the provisions of G.S. 110- 136, and in connection
7 with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
8 pension, an annuity, or a retirement allowance, to the return of contributions, the
9 pension, annuity or retirement allowance itself, any optional benefit or any other right
10 accrued or accruing to any person under the provisions of this Article, and the moneys
11 in the various funds created by this Article, ~~are hereby exempt from any state or municipal~~
12 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
13 whatsoever, and shall be unassignable except as in this Article specifically otherwise
14 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
15 to a member in a State- administered retirement system or Disability Salary
16 Continuation Plan may be offset against any retirement allowance, return of
17 contributions or any other right accruing under this Chapter to the same person, the
18 person's estate, or designated beneficiary.”

19 Sec. 7. G.S. 135-9 reads as rewritten:

20 **"§ 135-9. Exemption from ~~taxes, garnishment, attachment, etc.~~**

21 Except for the applications of the provisions of G.S. 110-136, and in connection with
22 a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
23 pension, or annuity, or a retirement allowance, to the return of contributions, the
24 pension, annuity or retirement allowance itself, any optional benefit or any other right
25 accrued or accruing to any person under the provisions of this Chapter, and the moneys
26 in the various funds created by this Chapter, ~~are hereby exempt from any State or municipal~~
27 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
28 whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
29 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
30 to a member in a State-administered retirement system or the former Disability Salary
31 Continuation Plan or the Disability Income Plan of North Carolina may be offset against
32 any retirement allowance, return of contributions or any other right accruing under this
33 Chapter to the same person, the person's estate, or designated beneficiary.”

34 Sec. 8. G.S. 135-95 reads as rewritten:

35 **"§ 135-95. Exemption from ~~taxes, garnishment, attachment.~~**

36 Except for the applications of the provisions of G.S. 110- 136, and in connection
37 with a court-ordered equitable distribution under G.S. 50-20, the right of a member in
38 the Supplemental Retirement Income Plan to the benefits provided under this Article is
39 nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits payable under this~~
40 ~~Article are hereby exempt from any State and local government taxes, and garnishment.”~~

41 Sec. 9. G.S. 143-166.30(g) reads as rewritten:

42 "(g) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
43 participant in the Supplemental Retirement Income Plan to the benefits provided under
44 this Article is nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits~~

1 payable under this Article are hereby exempt from any State and local government taxes, and
2 garnishment."

3 Sec. 10. G.S. 143-166.60(h) reads as rewritten:

4 "(h) Exemption from ~~Taxes,~~—Garnishment and Attachment. – The right of a
5 participant in the Separate Insurance Benefits Plan to the benefits provided under this
6 Article is nonforfeitable and exempt from levy, sale, and ~~garnishment,~~ and the benefits
7 payable under this Article are exempt from any State and local government taxes.
8 garnishment."

9 Sec. 11. G.S. 143-166.85(e) is repealed.

10 Sec. 12. G.S. 147-9.4 reads as rewritten:

11 **"§ 147-9.4. Deferred Compensation Plan.**

12 Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision
13 of law relating to salaries or salary schedules of State employees, the chief executive
14 officer of an employer, on behalf of the employer, may from time to time enter into a
15 contract with an employee under which the employee irrevocably elects to defer receipt
16 of a portion of his scheduled salary in the future, but only if, as a result of such contract,
17 the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-
18 426.24 or pursuant to some other plan established before 1 January 1983, and is not
19 constructively received by the employee in the year in which it was earned, for State
20 and federal income tax purposes. In addition, the income so deferred shall be invested
21 in the manner provided in the applicable Plan; however, the employee may revoke his
22 election to participate and may amend the amount of compensation to be deferred by
23 signing and filing with the Board a written revocation or amendment on a form and in
24 the manner approved by the Board. Any such revocation or amendment shall be
25 effective prospectively only and shall cause no change in the allocation of amounts
26 invested prior to the filing date of such revocation or amendment.

27 An employee who has agreed to the deferral of income pursuant to the Plan shall
28 have the right to receive the income so deferred only in accordance with the provisions
29 of the Plan. Funds so deferred shall not be in lieu of any amount earned by the employee
30 before his election to defer compensation became effective. The agreement to defer
31 income referred to herein shall be effective under such necessary regulations and
32 procedures as are adopted by the Board, and on forms prepared or approved by it.
33 Notwithstanding any other provisions of law, the amount by which the salary of an
34 employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in
35 computing and making payroll deductions for social security and retirement system
36 purposes, if any, and in computing and providing matching funds for retirement system
37 purposes, if any.

38 Except for the applications of the provisions of G.S. 110-136, and in connection with
39 a court-ordered equitable distribution under G.S. 50-20, the right of an employee, who
40 elects to defer income pursuant to the North Carolina Public Employee Deferred
41 Compensation Plan under G.S. 143B-426.24, to benefits that have vested under the
42 Plan, is nonforfeitable. These benefits are exempt from levy, sale, and garnishment,
43 except as provided by this section, ~~and exempt from all State and local taxation.~~ section."

44 Sec. 13. G.S. 161-50.5(e) is repealed.

1 Sec. 14. This act is effective for taxable years beginning on or after January
2 1, 1990.