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SENATE BILL 288
Pensions and Retirement Committee Substitute Adopted 7/9/92
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Short Title: Modify Retire. Benefit Restrict.

(Public)

Sponsors:

Referred to:

March 27, 1991

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE BENEFIT RESTRICTIONS FOR REEMPLOYED
RETIRES IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
SYSTEM AND IN THE TEACHERS' AND STATE EMPLOYEES'
RETIREMENT SYSTEM AND IN THE CONSOLIDATED JUDICIAL
RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-24(5) reads as rewritten:

"(5) The provisions of this subdivision (5) shall apply to any member whose membership is terminated on or after July 1, 1965, and who becomes entitled to benefits hereunder in accordance with the provisions hereof.

a. Notwithstanding any other provision of this Chapter, any member who separates from service prior to the attainment of the age of 60 years for any reason other than death or retirement for disability as provided in G.S. 128-27(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon written application to the Board of Trustees setting forth at what time, not less than one day nor more than 90 days subsequent to

1 the execution and filing thereof, he desires to be retired; and
 2 further provided that in the case of a member who so separates
 3 from service on or after July 1, 1967, the aforesated
 4 requirement of 15 or more years of creditable service shall be
 5 reduced to 12 or more years of creditable service; and further
 6 provided that in the case of a member who so separates from
 7 service on or after July 1, 1971, or whose account is active on
 8 July 1, 1971, the aforesated requirement of 12 or more years of
 9 creditable service shall be reduced to five or more years of
 10 creditable service. Such deferred retirement allowance shall be
 11 computed in accordance with the provisions of G.S. 128-27(b1),
 12 provided that such benefits will be computed in accordance
 13 with subsection (b2) on or after July 1, 1967, but prior to July 1,
 14 1969; and provided further that such benefits will be computed
 15 in accordance with subsection (b3) on or after July 1, 1969.

16 b. In lieu of the benefits provided in paragraph a of this
 17 subdivision, any member who separates from service prior to
 18 the attainment of the age of 60 years, for any reason other than
 19 death or retirement for disability as provided in G.S. 128-27(c),
 20 after completing 20 or more years of creditable service, and
 21 who leaves his total accumulated contributions in said System
 22 may elect to retire on an early retirement allowance upon
 23 attaining the age of 50 years or at any time thereafter; provided
 24 that such member may so retire only upon written application to
 25 the Board of Trustees setting forth at what time, not less than
 26 one day nor more than 90 days subsequent to the execution and
 27 filing thereof, he desires to be retired. Such early retirement
 28 allowance so elected shall be equal to the deferred retirement
 29 allowance otherwise payable at the attainment of the age of 60
 30 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

43 b1. In lieu of the benefits provided in paragraphs a and b of this
 44 subdivision, any member who is a law enforcement officer at

1 the time of separation from service prior to the attainment of the
2 age of 50 years, for any reason other than death or disability as
3 provided in this Article, after completing 15 or more years of
4 creditable service in this capacity immediately prior to
5 separation from service, and who leaves his total accumulated
6 contributions in this System, may elect to retire on a deferred
7 early retirement allowance upon attaining the age of 50 years or
8 at any time thereafter; provided, that the member may
9 commence retirement only upon written application to the
10 Board of Trustees setting forth at what time, as of the first day
11 of a calendar month, not less than one day nor more than 90
12 days subsequent to the execution and filing thereof, he desires
13 to commence retirement. The deferred early retirement
14 allowance shall be computed in accordance with the service
15 retirement provisions of this Article pertaining to law
16 enforcement officers.

17 b2. In lieu of the benefits provided in paragraphs a and b of this
18 subdivision, any member who is a law enforcement officer at
19 the time of separation from service prior to the attainment of the
20 age of 55 years, for any reason other than death or disability as
21 provided in this Article, after completing five or more years of
22 creditable service in this capacity immediately prior to
23 separation from service, and who leaves his total accumulated
24 contributions in this System may elect to retire on a deferred
25 service retirement allowance upon attaining the age of 55 years
26 or at any time thereafter; provided, that the member may
27 commence retirement only upon written application to the
28 Board of Trustees setting forth at what time, as of the first day
29 of a calendar month not less than one day nor more than 90
30 days subsequent to the execution and filing thereof, he desires
31 to commence retirement. The deferred service retirement
32 allowance shall be computed in accordance with the service
33 retirement provisions of this Article pertaining to law
34 enforcement officers.

35 c. Should a beneficiary who retired on an early or service
36 retirement allowance be ~~reemployed~~ reemployed, or otherwise
37 engaged to perform services, by an employer participating in
38 the Retirement System on a ~~permanent full-time,~~ part-time,
39 temporary, interim, or on a fee-for-service basis, whether
40 contractual or otherwise, ~~the retirement allowance shall be~~
41 ~~suspended if the beneficiary receives or earns any of the following:~~

42 1. ~~Salary or fees or both in excess of one thousand five~~
43 ~~hundred dollars (\$1,500) per month;~~

- 1 2.- Salary or fees or both in excess of thirteen thousand five
2 hundred dollars (\$13,500) during any consecutive 12
3 calendar months;
4 3.- Salary or fees or both during any consecutive 12
5 calendar months, which is greater than fifty percent
6 (50%) of the reported compensation during the 12
7 months of service preceding the effective date of
8 retirement; or
9 4.- Salary or fees or both during any month, which when
10 added to the retirement allowance at retirement exceeds
11 the monthly compensation earned immediately prior to
12 retirement, if reemployed by the same employer within
13 90 days of the effective date of retirement.

14 The suspension of the retirement allowance shall be effective as
15 of the first day of the month in which the beneficiary meets the
16 conditions set forth in conditions 1 or 4 of this paragraph and
17 effective as of the first day of the next succeeding month
18 following the month in which the beneficiary meets the
19 conditions set forth in conditions 2 or 3 of this paragraph. The
20 retirement allowance shall be reinstated the month following
21 termination of reemployment or the month following the month
22 in which the conditions set forth in this paragraph are no longer
23 met. The Board of Trustees may adjust the monetary limits in
24 this paragraph by an amount equivalent to any across the board
25 salary increase granted to employees of the State by the General
26 Assembly. Each employer shall report information monthly to
27 the Board of Trustees on forms provided by the Board on each
28 reemployed beneficiary sufficient for the effective enforcement
29 of this paragraph. Notwithstanding the foregoing, any
30 beneficiary may irrevocably elect to recommence membership
31 in the Retirement System immediately upon being restored to
32 service, whereupon the retirement allowance shall cease, and if
33 such beneficiary earns an amount in any month which exceeds
34 one-twelfth (1/12) of forty percent (40%) of average final
35 compensation or one-twelfth (1/12) of twenty thousand dollars
36 (\$20,000) whichever is greater, as hereinafter indexed, then the
37 retirement allowance shall be suspended as of the month in
38 which the reemployment earnings exceed the amount above.
39 The retirement allowance of the beneficiary shall be reinstated
40 as of any month in which the reemployment earnings do not
41 exceed one-twelfth (1/12) of forty percent (40%) of average
42 final compensation or one-twelfth (1/12) of twenty thousand
43 dollars (\$20,000) whichever is greater. The amount that may be
44 earned before suspension shall be increased on January 1 of

1 each year by the ratio of the Consumer Price Index to the Index
 2 one year earlier, calculated to the nearest tenth of a percent
 3 (1/10 of 1%).

- 4 d. Should a ~~A~~-beneficiary who retired on an early or service
 5 retirement allowance whose retirement allowance is suspended in
 6 accordance with the provisions of paragraph c and who is be
 7 restored to service as an employee, then the retirement
 8 allowance shall cease as of the first day of the month in which
 9 the beneficiary is restored to service and the beneficiary shall
 10 become a member of the Retirement System and shall
 11 contribute thereafter as allowed by law at the uniform
 12 contribution payable by all members.

13 Upon his subsequent retirement, he shall be paid a
 14 retirement allowance determined as follows:

- 15 1. For a member who earns at least three years' membership
 16 service after restoration to service, the retirement
 17 allowance shall be computed on the basis of his
 18 compensation and service before and after the period of
 19 prior retirement without restriction; provided, that if the
 20 prior allowance was based on a social security leveling
 21 payment option, the allowance shall be adjusted
 22 actuarially for the difference between the amount
 23 received under the optional payment and what would
 24 have been paid if the retirement allowance had been paid
 25 without optional modification.
- 26 2. For a member who does not earn three years'
 27 membership service after restoration to service, the
 28 retirement allowance shall be equal to the sum of the
 29 retirement allowance to which he would have been
 30 entitled had he not been restored to service, without
 31 modification of the election of an optional allowance
 32 previously made, and the retirement allowance that
 33 results from service earned since being restored to
 34 service; provided, that if the prior retirement allowance
 35 was based on a social security leveling payment option,
 36 the prior allowance shall be adjusted actuarially for the
 37 difference between the amount that would have been
 38 paid for each month had the payment not been suspended
 39 and what would have been paid if the retirement
 40 allowance had been paid without optional modification."

41 Sec. 2. G.S. 135-1(10) reads as rewritten:

42 "(10) 'Employee' shall mean all full-time employees, agents or officers
 43 of the State of North Carolina or any of its departments, bureaus
 44 and institutions other than educational, whether such employees are

1 elected, appointed or employed: Provided that the term 'employee'
2 shall not include any person who is a member of the ~~Uniform~~
3 Consolidated Judicial Retirement System, any member of the
4 General Assembly or any part-time or temporary employee.
5 Notwithstanding any other provision of law, 'employee' shall
6 include all employees of the General Assembly except participants
7 in the Legislative Intern ~~Program~~ Program, and pages. pages, and
8 reemployed beneficiaries in receipt of a monthly retirement
9 allowance under this Chapter. In all cases of doubt, the Board of
10 Trustees shall determine whether any person is an employee as
11 defined in this Chapter. 'Employee' shall also mean every full-time
12 civilian employee of the army national guard and air national guard
13 of this State who is employed pursuant to section 709 of Title 32 of
14 the United States Code and paid from federal appropriated funds,
15 but held by the federal authorities not to be a federal employee:
16 Provided, however, that the authority or agency paying the salaries
17 of such employees shall deduct or cause to be deducted from each
18 employee's salary the employee's contribution in accordance with
19 applicable provisions of G.S. 135-8 and remit the same, either
20 directly or indirectly, to the Retirement System; coverage of
21 employees described in this sentence shall commence upon the first
22 day of the calendar year or fiscal year, whichever is earlier, next
23 following the date of execution of an agreement between the
24 Secretary of Defense of the United States and the Adjutant General
25 of the State acting for the Governor in behalf of the State, but no
26 credit shall be allowed pursuant to this sentence for any service
27 previously rendered in the above-described capacity as a civilian
28 employee of the national guard: Provided, further, that the Adjutant
29 General, in his discretion, may terminate the Retirement System
30 coverage of the above-described national guard employees if a
31 federal retirement system is established for such employees and the
32 Adjutant General elects to secure coverage of such employees
33 under such federal retirement system. Any full-time civilian
34 employee of the national guard described above who is now or
35 hereafter may become a member of the Retirement System may
36 secure Retirement System credit for such service as a national
37 guard civilian employee for the period preceding the time when
38 such employees became eligible for Retirement System coverage
39 by paying to the Retirement System an amount equal to that which
40 would have constituted employee contributions if he had been a
41 member during the years of ineligibility, plus interest. Employees
42 of State agencies, departments, institutions, boards, and
43 commissions who are employed in permanent job positions on a
44 recurring basis and who work 30 or more hours per week for nine

1 or more months per calendar year are covered by the provisions of
2 this subdivision."

3 Sec. 3. G.S. 135-3(8) reads as rewritten:

4 "(8) The provisions of this subsection (8) shall apply to any member
5 whose membership is terminated on or after July 1, 1963 and who
6 becomes entitled to benefits hereunder in accordance with the
7 provisions hereof.

- 8 a. Notwithstanding any other provision of this Chapter, any
9 member who separates from service prior to the attainment of
10 the age of 60 years for any reason other than death or retirement
11 for disability as provided in G.S. 135-5(c), after completing 15
12 or more years of creditable service, and who leaves his total
13 accumulated contributions in said System shall have the right to
14 retire on a deferred retirement allowance upon attaining the age
15 of 60 years; provided that such member may retire only upon
16 written application to the Board of Trustees setting forth at what
17 time, not less than one day nor more than 90 days subsequent to
18 the execution and filing thereof, he desires to be retired; and
19 further provided that in the case of a member who so separates
20 from service on or after July 1, 1967 or whose account is active
21 on July 1, 1967, or has not withdrawn his contributions, the
22 aforestated requirement of 15 or more years of creditable
23 service shall be reduced to 12 or more years of creditable
24 service; and further provided that in the case of a member who
25 so separates from service on or after July 1, 1971, or whose
26 account is active on July 1, 1971, the aforestated requirement of
27 12 or more years of creditable service shall be reduced to five
28 or more years of creditable service. Such deferred retirement
29 allowance shall be computed in accordance with the provisions
30 of G.S. 135-5(b1); provided that such benefits will be computed
31 in accordance with (b2) on or after July 1, 1967, but prior to
32 July 1, 1969; and provided further that such benefits will be
33 computed in accordance with (b3) on or after July 1, 1969.
34 Notwithstanding the foregoing, any member whose services as
35 a teacher or employee are terminated for any reason other than
36 retirement, who becomes employed by a nonprofit, nonsectarian
37 private school in North Carolina below the college level within
38 one year after such teacher or employee has ceased to be a
39 teacher or employee, may elect to leave his total accumulated
40 contributions in the Teachers' and State Employees' Retirement
41 System during the period he is in the employment of such
42 employer; provided that he files notice thereof in writing with
43 the Board of Trustees of the Retirement System within five
44 years after separation from service as a public school teacher or

1 State employee; such member shall be deemed to have met the
 2 requirements of the above provisions of this subdivision upon
 3 attainment of age 60 while in such employment provided that
 4 he is otherwise vested.

5 b. In lieu of the benefits provided in paragraph a of this
 6 subdivision (8), any member who separates from service prior
 7 to the attainment of the age of 60 years, for any reason other
 8 than death or retirement for disability as provided in G.S. 135-
 9 5(c), after completing 20 or more years of creditable service,
 10 and who leaves his total accumulated contributions in said
 11 System, may elect to retire on an early retirement allowance
 12 upon attaining the age of 50 years or at any time thereafter;
 13 provided that such member may so retire only upon written
 14 application to the Board of Trustees setting forth at what time,
 15 not less than one day nor more than 90 days subsequent to the
 16 execution and filing thereof, he desires to be retired. Such early
 17 retirement allowance so elected shall be equal to the deferred
 18 retirement allowance otherwise payable at the attainment of the
 19 age of 60 years reduced by the percentage thereof indicated
 20 below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

31 b1. In lieu of the benefits provided in paragraphs a and b of this
 32 subdivision, any member who is a law-enforcement officer at
 33 the time of separation from service prior to the attainment of the
 34 age of 50 years, for any reason other than death or disability as
 35 provided in this Article, after completing 15 or more years of
 36 creditable service in this capacity immediately prior to
 37 separation from service, and who leaves his total accumulated
 38 contributions in this System may elect to retire on a deferred
 39 early retirement allowance upon attaining the age of 50 years or
 40 at any time thereafter; provided, that the member may
 41 commence retirement only upon written application to the
 42 Board of Trustees setting forth at what time, as of the first day
 43
 44

1 of a calendar month, not less than one day nor more than 90
2 days subsequent to the execution and filing thereof, he desires
3 to commence retirement. The deferred early retirement
4 allowance shall be computed in accordance with the service
5 retirement provisions of this Article pertaining to law-
6 enforcement officers.

7 b2. In lieu of the benefits provided in paragraphs a and b of this
8 subdivision, any member who is a law-enforcement officer at
9 the time of separation from service prior to the attainment of the
10 age of 55 years, for any reason other than death or disability as
11 provided in this Article, after completing five or more years of
12 creditable service in this capacity immediately prior to
13 separation from service, and who leaves his total accumulated
14 contributions in this System may elect to retire on a deferred
15 early retirement allowance upon attaining the age of 55 years or
16 at any time thereafter; provided, that the member may
17 commence retirement only upon written application to the
18 Board of Trustees setting forth at what time, as of the first day
19 of a calendar month not less than one day nor more than 90
20 days subsequent to the execution and filing thereof, he desires
21 to commence retirement. The deferred early retirement
22 allowance shall be computed in accordance with the service
23 retirement provisions of this Article pertaining to law-
24 enforcement officers.

25 c. Should a beneficiary who retired on an early or service
26 retirement allowance under this Chapter be ~~reemployed~~
27 reemployed, or otherwise engaged to perform services, by an
28 employer participating in the Retirement System other than
29 temporary employees of the General Assembly on a ~~permanent~~
30 ~~full-time, part-time, temporary, interim~~ or on a fee-for-service
31 basis, whether contractual or otherwise, ~~the retirement allowance~~
32 ~~shall be suspended if the beneficiary receives or earns any of the~~
33 ~~following:~~

- 34 1. ~~Salary or fees or both in excess of one thousand five~~
35 ~~hundred dollars (\$1,500) per month;~~
- 36 2. ~~Salary or fees or both in excess of thirteen thousand five~~
37 ~~hundred (\$13,500) during any consecutive 12 calendar~~
38 ~~months;~~
- 39 3. ~~Salary or fees or both during any consecutive 12~~
40 ~~calendar months, which is greater than fifty percent~~
41 ~~(50%) of the reported compensation during the 12~~
42 ~~months of service preceding the effective date of~~
43 ~~retirement; or~~

1 4. Salary or fees or both during any month, which when
2 added to the retirement allowance at retirement exceeds
3 the monthly compensation earned immediately prior to
4 retirement, if reemployed by the same employer within
5 90 days of the effective date of retirement.

6 The suspension of the retirement allowance shall be effective
7 as of the first day of the month in which the beneficiary meets
8 the conditions set forth in conditions 1 or 4 of this paragraph
9 and effective as of the first day of the next succeeding month
10 following the month in which the beneficiary meets the
11 conditions set forth in conditions 2 or 3 of this paragraph. The
12 retirement allowance shall be reinstated the month following
13 termination of reemployment or the month following the month
14 in which the conditions set forth in this paragraph are no longer
15 met. The Board of Trustees may adjust the monetary limits in
16 this paragraph by an amount equivalent to any across the board
17 salary increase granted to employees of the State by the General
18 Assembly. Each employer shall report information monthly to
19 the Board of Trustees on forms provided by the Board on each
20 reemployed beneficiary sufficient for the effective enforcement
21 of this paragraph. Notwithstanding the foregoing, any
22 beneficiary may irrevocable elect to recommence membership
23 in the Retirement System immediately upon being restored to
24 service, whereupon the retirement allowance shall cease, and if
25 such beneficiary earns an amount in any month which exceeds
26 one-twelfth (1/12) of forty percent (40%) of average final
27 compensation or one-twelfth (1/12) of twenty thousand dollars
28 (\$20,000) whichever is greater, as hereinafter indexed, then the
29 retirement allowance shall be suspended as of the month in
30 which the reemployment earnings exceed the amount above.
31 The retirement allowance of the beneficiary shall be reinstated
32 as of any month in which the reemployment earnings do not
33 exceed one-twelfth (1/12) of forty percent (40%) of average
34 final compensation or one-twelfth (1/12) of twenty thousand
35 dollars (\$20,000) whichever is greater. The amount that may be
36 earned before suspension shall be increased on January 1 of
37 each year by the ratio of the Consumer Price Index to the Index
38 one year earlier, calculated to the nearest tenth of a percent
39 (1/10 of 1%).

40 d. Should a A-beneficiary who retired on an early or service
41 retirement allowance under this Chapter whose retirement
42 allowance is suspended in accordance with the provisions of
43 paragraph c and who is be restored to service as an employee or
44 teacher, then the retirement allowance shall cease as of the first

1 day of the month in which the beneficiary is restored to service
2 and the beneficiary shall become a member of the Retirement
3 System and shall contribute thereafter as allowed by law at the
4 uniform contribution payable by all members.

5 Upon his subsequent retirement, he shall be paid a
6 retirement allowance determined as follows:

7 1. For a member who earns at least three years' membership
8 service after restoration to service, the retirement
9 allowance shall be computed on the basis of his
10 compensation and service before and after the period of
11 prior retirement without restrictions; provided, that if the
12 prior allowance was based on a social security leveling
13 payment option, the allowance shall be adjusted
14 actuarially for the difference between the amount
15 received under the optional payment and what would
16 have been paid if the retirement allowance had been paid
17 without optional modification.

18 2. For a member who does not earn three years'
19 membership service after restoration to service, the
20 retirement allowance shall be equal to the sum of the
21 retirement allowance to which he would have been
22 entitled had he not been restored to service, without
23 modification of the election of an optional allowance
24 previously made, and the retirement allowance that
25 results from service earned since being restored to
26 service; provided, that if the prior retirement allowance
27 was based on a social security leveling payment option,
28 the prior allowance shall be adjusted actuarially for the
29 difference between the amount that would have been
30 paid for each month had the payment not been suspended
31 and what would have been paid if the retirement
32 allowance had been paid without optional modification.

33 e. Any beneficiary who retired on an early or service retirement
34 allowance as an employee of any State department, agency or
35 institution under the Law Enforcement Officers' Retirement
36 System and becomes employed as an employee by a State
37 department, agency, or institution as an employer participating
38 in the Retirement System shall become subject to the provisions
39 of G.S. 135-3(8)c and G.S. 135-3(8)d on and after January 1,
40 1989."

41 Sec. 4. This act becomes effective January 1, 1993.