

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1465

Pensions & Retirement and Insurance Committee Substitute Adopted 6/23/98

Short Title: Modify Election of Optional Allowance.

(Public)

Sponsors:

Referred to: Appropriations.

May 28, 1998

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW MEMBERS OF THE LEGISLATIVE, LOCAL
2 GOVERNMENTAL EMPLOYEES', AND TEACHERS' AND STATE
3 EMPLOYEES' RETIREMENT SYSTEMS TO CHANGE THEIR DESIGNATED
4 BENEFICIARIES AFTER RETIREMENT HAS BECOME EFFECTIVE UNDER
5 CERTAIN CIRCUMSTANCES.
6

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 120-4.26 reads as rewritten:

9 **"§ 120-4.26. Benefit payment options.**

10 Any member may elect to receive his benefits in a retirement allowance payable
11 throughout life, or he may elect to receive the actuarial equivalent of the retirement
12 allowance in a reduced allowance payable throughout life under the provisions of one of
13 the options set forth below. No election may be made after the first payment becomes
14 due, or the first retirement check cashed, nor may an election be revoked or a nomination
15 changed. The election of Option 2 or Option 3 or the nomination of the person
16 thereunder shall be revoked if the person nominated dies prior to the date the first
17 payment becomes normally due or until the first retirement check has been cashed. The
18 election may be revoked by the member prior to the date the first payment becomes
19 normally due or until his first retirement check has been cashed. Provided, however, in

1 the event a member has elected Option 2 or Option 3 and nominated his or her spouse to
2 receive a retirement allowance upon the member's death, and the spouse predeceases the
3 member after the first payment becomes normally due or the first retirement check has
4 been cashed, if the member remarries he or she may nominate a new spouse to receive
5 the retirement allowance under the previously elected option, within 90 days of the
6 remarriage. The new nomination shall be effective on the first day of the month in which
7 it is made and shall provide for a retirement allowance computed to be the actuarial
8 equivalent of the retirement allowance in effect immediately prior to the effective date of
9 the new nomination. ~~Provided, however, any~~ Any member having elected Options 2 or 3
10 and nominated his or her spouse to receive a retirement allowance upon the member's
11 death may, after divorce from his or her spouse, revoke the nomination and elect a new
12 option, effective on the first day of the month in which the new option is elected,
13 providing for a retirement allowance computed to be the actuarial equivalent to the
14 retirement allowance in effect immediately prior to the effective date of the new option.

15 Option 1. For Members Retiring Prior to July 1, 1993. – If a member dies within 10
16 years from his retirement date, an amount equal to his accumulated contributions at
17 retirement, less one-one hundred twentieth (1/120) for each month for which he has
18 received a retirement allowance payment, shall be paid to his legal representative or to
19 the person he nominates by written designation acknowledged and filed with the Board of
20 Trustees;

21 Option 2. – Upon his death, his reduced retirement allowance shall be continued
22 throughout the life of and paid to the person he nominates by written designation duly
23 acknowledged and filed with the Board of Trustees at the time of his retirement. If the
24 person selected is other than his spouse, the reduced retirement allowance payable to the
25 member shall not be less than one half of the retirement allowance without optional
26 modification which would otherwise be payable to him; or

27 Option 3. – Upon his death, one half of his reduced retirement allowance shall be
28 continued throughout the life of and paid to the person he nominates by written
29 designation duly acknowledged and filed with the Board of Trustees at the time of his
30 retirement."

31 Section 2. G.S. 128-27(g) reads as rewritten:

32 "(g) Election of Optional Allowance. – With the provision that until the first
33 payment on account of any benefit becomes normally due, or his first retirement check
34 has been cashed, any member may elect to receive his benefits in a retirement allowance
35 payable throughout life, or he may elect to receive the actuarial equivalent of such
36 retirement allowance in a reduced allowance payable throughout life under the provisions
37 of one of the Options set forth below. The election of Option two or Option three or
38 nomination of the person thereunder shall be revoked if such person nominated dies prior
39 to the date the first payment becomes normally due or the first retirement check has been
40 cashed. Such election may be revoked by the member prior to the date the first payment
41 becomes normally due or his first retirement check has been cashed. Provided, however,
42 in the event a member has elected Option 2 or Option 3 and nominated his or her spouse
43 to receive a retirement allowance upon the member's death, and the spouse predeceases

1 the member after the first payment becomes normally due or the first retirement check
2 has been cashed, if the member remarries he or she may nominate a new spouse to
3 receive the retirement allowance under the previously elected option, within 90 days of
4 the remarriage. The new nomination shall be effective on the first day of the month in
5 which it is made and shall provide for a retirement allowance computed to be the
6 actuarial equivalent of the retirement allowance in effect immediately prior to the
7 effective date of the new nomination. ~~Provided, however, any~~ Any member having elected
8 Options two, three, or six and nominated his or her spouse to receive a retirement
9 allowance upon the member's death may, after divorce from his or her spouse, revoke the
10 nomination and elect a new option, effective on the first day of the month in which the
11 new option is elected, providing for a retirement allowance computed to be the actuarial
12 equivalent of the retirement allowance in effect immediately prior to the effective date of
13 the new option.

14 Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. – If

15 he dies before he has received in annuity payments the present value of
16 his annuity as it was at the time of his retirement, the balance shall be
17 paid to such person as he shall nominate by written designation duly
18 acknowledged and filed with the Board of Trustees or, if none, to his
19 legal representative.

20 (b) In the Case of a Member Who Retires on or after July 1, 1965, but prior
21 to July 1, 1993. – If he dies within 10 years from his retirement date, an
22 amount equal to his accumulated contributions at retirement, less one
23 one-hundred-twentieth thereof for each month for which he has received
24 a retirement allowance payment, shall be paid to such person as he shall
25 nominate by written designation duly acknowledged and filed with the
26 Board of Trustees or, if none, to his legal representative; or

27 Option two. Upon his death his reduced retirement allowance shall be continued
28 throughout the life of and paid to such person as he shall nominate by written designation
29 duly acknowledged and filed with the Board of Trustees at the time of his retirement,
30 provided that if the person selected is other than his spouse the reduced retirement
31 allowance payable to the member shall not be less than one half of the retirement
32 allowance without optional modification which would otherwise be payable to him; or

33 Option three. Upon his death, one half of his reduced retirement allowance shall be
34 continued throughout the life of, and paid to such person as he shall nominate by written
35 designation duly acknowledged and filed with the Board of Trustees at the time of his
36 retirement; or

37 Option four. Adjustment of Retirement Allowance for Social Security Benefits. –
38 Until the first payment on account of any benefit becomes normally due, any member
39 may elect to convert his benefit otherwise payable on his account after retirement into a
40 retirement allowance of equivalent actuarial value of such amount that with his benefit
41 under Table II of the Federal Social Security Act, he will receive, so far as possible,
42 approximately the same amount per year before and after the earliest age at which he
43 becomes eligible, upon application therefor, to receive a social security benefit.

1 Option five. For Members Retiring prior to July 1, 1993. – The member may elect to
2 receive a reduced retirement allowance under the conditions of Option two or Option
3 three, as provided for above, with the modification that if both he and the person
4 nominated die within 10 years from his retirement date, an amount equal to his
5 accumulated contributions at retirement, less 1/120th thereof for each month for which a
6 retirement allowance has been paid, shall be paid to his legal representatives or to such
7 person as he shall nominate by written designation duly acknowledged and filed with the
8 Board of Trustees.

9 Option six. A member may elect either Option two or Option three with the added
10 provision that in the event the designated beneficiary predeceases the member, the
11 retirement allowance payable to the member after the designated beneficiary's death shall
12 be equal to the retirement allowance which would have been payable had the member not
13 elected the option."

14 Section 3. G.S. 135-5(g) reads as rewritten:

15 "(g) Election of Optional Allowance. – With the provision that until the first
16 payment on account of any benefit becomes normally due, or his first retirement check
17 has been cashed, any member may elect to receive his benefits in a retirement allowance
18 payable throughout life, or he may elect to receive the actuarial equivalent of such
19 retirement allowance in a reduced allowance payable throughout life under the provisions
20 of one of the options set forth below. The election of Option 2 or Option 3 or nomination
21 of the person thereunder shall be revoked if such person nominated dies prior to the date
22 the first payment becomes normally due or until the first retirement check has been
23 cashed. Such election may be revoked by the member prior to the date the first payment
24 becomes normally due or until his first retirement check has been cashed. Provided,
25 however, in the event a member has elected Option 2 or Option 3 and nominated his or
26 her spouse to receive a retirement allowance upon the member's death, and the spouse
27 predeceases the member after the first payment becomes normally due or the first
28 retirement check has been cashed, if the member remarries he or she may nominate a new
29 spouse to receive the retirement allowance under the previously elected option, within 90
30 days of the remarriage. The new nomination shall be effective on the first day of the
31 month in which it is made and shall provide for a retirement allowance computed to be
32 the actuarial equivalent of the retirement allowance in effect immediately prior to the
33 effective date of the new nomination. ~~Provided, however, any~~ Any member having elected
34 Options 2, 3, or 6 and nominated his or her spouse to receive a retirement allowance upon
35 the member's death may, after divorce from his or her spouse, revoke the nomination and
36 elect a new option, effective on the first day of the month in which the new option is
37 elected, providing for a retirement allowance computed to be the actuarial equivalent of
38 the retirement allowance in effect immediately prior to the effective date of the new
39 option.

40 Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. – If he
41 dies before he has received in annuity payments the present value of his
42 annuity as it was at the time of his retirement, the balance shall be paid
43 to his legal representatives or to such person as he shall nominate by

1 written designation duly acknowledged and filed with the Board of
2 Trustees.

- 3 (b) In the Case of a Member Who Retires on or after July 1, 1963, but prior
4 to July 1, 1993. – If he dies within 10 years from his retirement date, an
5 amount equal to his accumulated contributions at retirement, less 1/120
6 thereof for each month for which he has received a retirement allowance
7 payment, shall be paid to his legal representatives or to such person as
8 he shall nominate by written designation duly acknowledged and filed
9 with the Board of Trustees; or

10 Option 2. Upon his death his reduced retirement allowance shall be continued
11 throughout the life of and paid to such person as he shall nominate by written designation
12 duly acknowledged and filed with the Board of Trustees at the time of his retirement,
13 provided that if the person selected is other than his spouse the reduced retirement
14 allowance payable to the member shall not be less than one half of the retirement
15 allowance without optional modification which would otherwise be payable to him; or

16 Option 3. Upon his death, one half of his reduced retirement allowance shall be
17 continued throughout the life of, and paid to such person as he shall nominate by written
18 designation duly acknowledged and filed with the Board of Trustees at the time of his
19 retirement; or

20 Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until
21 the first payment on account of any benefit becomes normally due, any member may
22 elect to convert his benefit otherwise payable on his account after retirement into a
23 retirement allowance of equivalent actuarial value of such amount that with his benefit
24 under Title II of the Federal Social Security Act, he will receive, so far as possible,
25 approximately the same amount per year before and after the earliest age at which he
26 becomes eligible, upon application therefor, to receive a social security benefit.

27 Option 5. For Members Retiring Prior to July 1, 1993. – The member may elect to
28 receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as
29 provided for above, with the modification that if both he and the person nominated die
30 within 10 years from his retirement date, an amount equal to his accumulated
31 contributions at retirement, less 1/120 thereof for each month for which a retirement
32 allowance has been paid, shall be paid to his legal representatives or to such person as he
33 shall nominate by written designation duly acknowledged and filed with the Board of
34 Trustees.

35 Option 6. A member may elect either Option 2 or Option 3 with the added provision
36 that in the event the designated beneficiary predeceases the member, the retirement
37 allowance payable to the member after the designated beneficiary's death shall be equal
38 to the retirement allowance which would have been payable had the member not elected
39 the option."

40 Section 4. This act is effective when it becomes law and its provisions shall
41 apply to all persons who are retired from the Legislative Retirement System, the Local
42 Governmental Employees' Retirement System, or the Teachers' and State Employees'
43 Retirement System on that date or who retire from any of those retirement systems after

1 that date. In the case of retired members who designated a spouse as survivor under one
2 of the options specified in this act, whose designated spouses predeceased them, and who
3 remarried prior to the effective date of this act, such members may nominate the new
4 spouse to receive the survivor retirement benefits in accordance with this act, provided
5 that such nomination is made within 90 days of the effective date of this act.