

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 1433*

Short Title: Fire and Rescue Workers' Retirement. (Public)

Sponsors: Representatives Howard, Williams, Brubaker, Ross (Primary Sponsors);
Cotham, Dockham, Faison, Harrison, Hurley, Luebke, Moore,
Wainwright, Weiss, and Wray.

Referred to: Pensions and Retirement, if favorable, Appropriations.

April 12, 2007

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE BENEFITS FOR CAREER FIREFIGHTERS AND
CAREER RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-21 is amended by adding two new subdivisions to
read:

"(7b) "Career firefighter" means a person: (i) who is a full-time paid
employee of an employer that participates in the Local Governmental
Employees' Retirement System and maintains a fire department
certified by the North Carolina Department of Insurance, and (ii) who
is actively serving in a position with assigned primary duties and
responsibilities for the prevention, detection, and suppression of fire.

"(7c) "Career rescue squad worker" means a person: (i) who is a full-time
paid employee of an employer that participates in the Local
Governmental Employees' Retirement System and maintains a rescue
squad or emergency medical services team certified by the North
Carolina Department of Insurance or the Department of Health and
Human Services, and (ii) who is actively serving in a position with
assigned primary duties and responsibilities for the alleviation of
human suffering and assistance to persons who are in difficulty, who
are injured, or who become suddenly ill, by providing proper and
efficient care or emergency medical services."

SECTION 2. 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

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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 the execution and filing thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated requirement of 12 or more years of creditable service shall be reduced to five or more years of creditable service. Such deferred retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to a member who is not a law enforcement officer or eligible former law enforcement officer.

b. In lieu of the benefits provided in paragraph a of this subdivision, 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 20 or more years of creditable service, and who leaves his total accumulated contributions in said System may elect to retire on an early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided that such member may so 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 the execution and filing thereof, he desires to be retired. Such early retirement allowance so elected shall be equal to the deferred retirement allowance otherwise payable at the attainment of the age of 60 years reduced by the percentage thereof indicated below.

Age at Retirement	Percentage Reduction
59	7

1	58	14
2	57	20
3	56	25
4	55	30
5	54	35
6	53	39
7	52	43
8	51	46
9	50	50

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- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement ~~officer~~ officer, career firefighter, or career rescue squad worker at the time of separation from service prior to the attainment of the age of 50 years, for any reason other than death or disability as provided in this Article, after completing 15 or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System, may elect to retire on a deferred early retirement allowance upon attaining the age of 50 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 90 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred early retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers~~ officers, career firefighters, or career rescue squad workers.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement ~~officer~~ officer, career firefighter, or career rescue squad worker at the time of separation from service prior to the attainment of the age of 55 years, for any reason other than death or disability as provided in this Article, after completing five or more years of creditable service in this capacity immediately prior to separation from service, and who leaves his total accumulated contributions in this System may elect to retire on a deferred service retirement allowance upon attaining the age of 55 years or at any time thereafter; provided, that the member may commence retirement only upon written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month not less than one day nor more than 90

1 days subsequent to the execution and filing thereof, he desires
2 to commence retirement. The deferred service retirement
3 allowance shall be computed in accordance with the service
4 retirement provisions of this Article pertaining to law
5 enforcement ~~officers~~; officers, career firefighters, or career
6 rescue squad workers.

7 b3. Deferred retirement allowance of members retiring on or after
8 July 1, 1995. – In lieu of the benefits provided in paragraphs a.
9 and b. of this subdivision, any member who separates from
10 service prior to attainment of age 60 years, after completing 20
11 or more years of creditable service, and who leaves his total
12 accumulated contributions in said System, may elect to retire on
13 a deferred retirement allowance upon attaining the age of 50
14 years or any time thereafter; provided that such member may so
15 retire only upon written application to the Board of Trustees
16 setting forth at what time, not less than one day nor more than
17 90 days subsequent to the execution and filing thereof, he
18 desires to be retired. Such deferred retirement allowance shall
19 be computed in accordance with the service retirement
20 provisions of this Article pertaining to a member who is not a
21 law enforcement ~~officer or officer~~, an eligible former law
22 enforcement ~~officer~~; officer, a career firefighter, an eligible
23 former career firefighter, a career rescue squad worker, or an
24 eligible former career rescue squad worker.

25 c. Should a beneficiary who retired on an early or service
26 retirement allowance be reemployed, or otherwise engaged to
27 perform services, by an employer participating in the
28 Retirement System on a part-time, temporary, interim, or on
29 fee-for-service basis, whether contractual or otherwise, and if
30 such beneficiary earns an amount during the 12-month period
31 immediately following the effective date of retirement or in any
32 calendar year which exceeds fifty percent (50%) of the reported
33 compensation, excluding terminal payments, during the 12
34 months of service preceding the effective date of retirement, or
35 twenty thousand dollars (\$20,000), whichever is greater, as
36 hereinafter indexed, then the retirement allowance shall be
37 suspended as of the first day of the month following the month
38 in which the reemployment earnings exceed the amount above,
39 for the balance of the calendar year. The retirement allowance
40 of the beneficiary shall be reinstated as of January 1 of each
41 year following suspension. The amount that may be earned
42 before suspension shall be increased on January 1 of each year
43 by the ratio of the Consumer Price Index to the Index one year
44 earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

1 d. Should a beneficiary who retired on an early or service
2 retirement allowance be restored to service as an employee,
3 then the retirement allowance shall cease as of the first day of
4 the month following the month in which the beneficiary is
5 restored to service and the beneficiary shall become a member
6 of the Retirement System and shall contribute thereafter as
7 allowed by law at the uniform contribution payable by all
8 members.

9 Upon his subsequent retirement, he shall be paid a
10 retirement allowance determined as follows:

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

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

37 **SECTION 3.** G.S. 128-27(a) reads as rewritten:

38 "(a) Service Retirement Benefits. –

39 (1) Any member may retire upon written application to the Board of
40 Trustees setting forth at what time, as of the first day of a calendar
41 month, not less than one day nor more than 90 days subsequent to the
42 execution and filing thereof, he desires to be retired: Provided, that the
43 said member at the time so specified for his retirement shall have
44 attained the age of 60 years and have at least five years of creditable

1 service or shall have completed 30 years of creditable service, or if a
 2 ~~fireman, he~~ career firefighter or career rescue squad worker, the
 3 member shall have attained the age of 55 years and have at least five
 4 years of creditable ~~service.~~ service in that capacity.

5 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

6 (3) Repealed by Session Laws 1971, c. 325, s. 12.

7 (4) Any member who was in service October 8, 1981, who had attained 60
 8 years of age, may retire upon written application to the Board of
 9 Trustees setting forth at what time, as of the first day of a calendar
 10 month, not less than one day nor more than 90 days subsequent to the
 11 execution and filing thereof, he desires to be retired.

12 (5) Any member who is a law enforcement officer, career firefighter, or
 13 career rescue squad worker and who attains age 50 and completes 15
 14 or more years of creditable service in this capacity or who attains age
 15 55 and completes five or more years of creditable service in this
 16 capacity, may retire upon written application to the Board of Trustees
 17 setting forth at what time, as of the first day of a calendar month, not
 18 less than one day nor more than 90 days subsequent to the execution
 19 and filing thereof, ~~he~~ the member desires to be retired; provided, also,
 20 any member who has met the conditions required by this subdivision
 21 but does not retire, and later becomes an employee other than as a law
 22 enforcement officer, career firefighter, or career rescue squad worker
 23 continues to have the right to commence retirement."

24 **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

25 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003.~~
 26 2003, but Before July 1, 2007. – Upon retirement from service in accordance with
 27 subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2007, a member
 28 shall receive the following service retirement allowance:

29 (1) A member who is a law enforcement officer or an eligible former law
 30 enforcement officer shall receive a service retirement allowance
 31 computed as follows:

32 a. If the member's service retirement date occurs on or after his
 33 55th birthday and completion of five years of creditable service
 34 as a law enforcement officer, or after the completion of 30 years
 35 of creditable service, the allowance shall be equal to one and
 36 eighty-five hundredths percent (1.85%) of his average final
 37 compensation, multiplied by the number of years of his
 38 creditable service.

39 b. If the member's service retirement date occurs on or after his
 40 50th birthday and before his 55th birthday with 15 or more
 41 years of creditable service as a law enforcement officer and
 42 prior to the completion of 30 years of creditable service, his
 43 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance payable under
2 G.S. 128-27(b21)(1)a. reduced by one-third of one
3 percent (1/3 of 1%) thereof for each month by which his
4 retirement date precedes the first day of the month
5 coincident with or next following the month the member
6 would have attained his 55th birthday;
- 7 2. The service retirement allowance as computed under
8 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
9 times the difference between 30 years and his creditable
10 service at retirement.
- 11 (2) A member who is not a law enforcement officer or an eligible former
12 law enforcement officer shall receive a service retirement allowance
13 computed as follows:
 - 14 a. If the member's service retirement date occurs on or after his
15 65th birthday upon the completion of five years of creditable
16 service or after the completion of 30 years of creditable service
17 or on or after his 60th birthday upon the completion of 25 years
18 of creditable service, the allowance shall be equal to one and
19 eighty-five hundredths percent (1.85%) of average final
20 compensation, multiplied by the number of years of creditable
21 service.
 - 22 b. If the member's service retirement date occurs after his 60th
23 birthday and before his 65th birthday and prior to his
24 completion of 25 years or more of creditable service, his
25 retirement allowance shall be computed as in
26 G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of
27 one percent (1/4 of 1%) thereof for each month by which his
28 retirement date precedes the first day of the month coincident
29 with or next following his 65th birthday.
 - 30 c. If the member's early service retirement date occurs on or after
31 his 50th birthday and before his 60th birthday and after
32 completion of 20 years of creditable service but prior to the
33 completion of 30 years of creditable service, his early service
34 retirement allowance shall be equal to the greater of:
 - 35 1. The service retirement allowance as computed under
36 G.S. 128-27(b21)(2)a. but reduced by the sum of
37 five-twelfths of one percent (5/12 of 1%) thereof for
38 each month by which his retirement date precedes the
39 first day of the month coincident with or next following
40 the month the member would have attained his 60th
41 birthday, plus one-quarter of one percent (1/4 of 1%)
42 thereof for each month by which his 60th birthday
43 precedes the first day of the month coincident with or
44 next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or
3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b21)(2)b.

- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

SECTION 5. G.S. 128-27 is amended by adding a new subsection to read:

"(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2007.
– Upon retirement from service in accordance with subsection (a) or (a1) of this section,
on or after July 1, 2007, a member shall receive the following service retirement
allowance:

- (1) A member who is a law enforcement officer, an eligible former law enforcement officer, a career firefighter, an eligible former career firefighter, a career rescue squad worker, or an eligible former career rescue squad worker shall receive a service retirement allowance computed as follows:

- a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, career firefighter, or a career rescue squad worker, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of his average final compensation, multiplied by the number of years of his creditable service.

- b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer, career firefighter, or career rescue squad worker and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:

1. The service retirement allowance payable under G.S. 128-27(b22)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday;

2. The service retirement allowance as computed under G.S. 128-27(b22)(1)a. reduced by five percent (5%)

- 1 times the difference between 30 years and his creditable
2 service at retirement.
- 3 (2) A member who is not a law enforcement officer, an eligible former
4 law enforcement officer, a career firefighter, an eligible former career
5 firefighter, a career rescue squad worker, or an eligible former career
6 rescue squad worker shall receive a service retirement allowance
7 computed as follows:
- 8 a. If the member's service retirement date occurs on or after his
9 65th birthday upon the completion of five years of creditable
10 service or after the completion of 30 years of creditable service
11 or on or after his 60th birthday upon the completion of 25 years
12 of creditable service, the allowance shall be equal to one and
13 eighty-five hundredths percent (1.85%) of average final
14 compensation, multiplied by the number of years of creditable
15 service.
- 16 b. If the member's service retirement date occurs after his 60th
17 birthday and before his 65th birthday and prior to his
18 completion of 25 years or more of creditable service, his
19 retirement allowance shall be computed as in
20 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
21 one percent (1/4 of 1%) thereof for each month by which his
22 retirement date precedes the first day of the month coincident
23 with or next following his 65th birthday.
- 24 c. If the member's early service retirement date occurs on or after
25 his 50th birthday and before his 60th birthday and after
26 completion of 20 years of creditable service but prior to the
27 completion of 30 years of creditable service, his early service
28 retirement allowance shall be equal to the greater of:
- 29 1. The service retirement allowance as computed under
30 G.S. 128-27(b22)(2)a. but reduced by the sum of
31 five-twelfths of one percent (5/12 of 1%) thereof for
32 each month by which his retirement date precedes the
33 first day of the month coincident with or next following
34 the month the member would have attained his 60th
35 birthday, plus one-quarter of one percent (1/4 of 1%)
36 thereof for each month by which his 60th birthday
37 precedes the first day of the month coincident with or
38 next following his 65th birthday; or
- 39 2. The service retirement allowance as computed under
40 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
41 times the difference between 30 years and his creditable
42 service at retirement; or
- 43 3. If the member's creditable service commenced prior to
44 July 1, 1995, the service retirement allowance equal to

1 the actuarial equivalent of the allowance payable at the
2 age of 60 years as computed in G.S. 128-27(b22)(2)b.

3 d. Notwithstanding the foregoing provisions, any member whose
4 creditable service commenced prior to July 1, 1965, shall not
5 receive less than the benefit provided by G.S. 128-27(b)."

6 **SECTION 6.** G.S. 128-27(m) reads as rewritten:

7 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
8 principal beneficiary designated to receive a return of accumulated contributions shall
9 have the right to elect to receive in lieu thereof the reduced retirement allowance
10 provided by Option two of subsection (g) above computed by assuming that the member
11 had retired on the first day of the month following the date of his death, provided that all
12 three of the following conditions apply:

- 13 (1) a. The member had attained such age and/or creditable service to
14 be eligible to commence retirement with an early or service
15 retirement allowance, or
16 b. The member had obtained 20 years of creditable service in
17 which case the retirement allowance shall be computed in
18 accordance with ~~G.S. 128-27(b21)(1)b.~~ ~~or~~
19 ~~G.S. 128-27(b21)(2)c.,~~ G.S. 128-27(b22)(1)b. ~~or~~
20 G.S. 128-27(b22)(2)c., notwithstanding the requirement of
21 obtaining age 50, or
22 c. The member had not commenced to receive a retirement
23 allowance as provided under this Chapter.
24 (2) The member had designated as the principal beneficiary to receive a
25 return of his accumulated contributions one and only one person who
26 is living at the time of his death.
27 (3) The member had not instructed the Board of Trustees in writing that he
28 did not wish the provisions of this subsection apply.

29 For the purpose of this benefit, a member is considered to be in service at the date of
30 his death if his death occurs within 180 days from the last day of his actual service. The
31 last day of actual service shall be determined as provided in subsection (l) of this
32 section. Upon the death of a member in service, the surviving spouse may make all
33 purchases for creditable service as provided for under this Chapter for which the
34 member had made application in writing prior to the date of death, provided that the
35 date of death occurred prior to or within 60 days after notification of the cost to make
36 the purchase."

37 **SECTION 7.** This act becomes effective July 1, 2007, but shall not affect
38 the rights of a person who is a vested member of the Local Governmental Employees'
39 Retirement System on that date to any disability benefits for which that person is
40 otherwise eligible on that date.