

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-109
SENATE BILL 411**

AN ACT TO AMEND THE PROVISION FOR THE SURVIVOR'S ALTERNATE BENEFIT FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO PROVIDE A BENEFIT FOR SURVIVORS OF LAW ENFORCEMENT OFFICERS KILLED IN THE LINE OF DUTY AFTER THE COMPLETION OF FIFTEEN YEARS OF SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5 (m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance,
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the requirement of obtaining age 50, ~~or~~
- b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, in which case the retirement allowance shall be computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding the requirement of obtaining age 50, or
- c. The member had not commenced to receive a retirement allowance as provided under this Chapter.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who was living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection to apply.

For the purpose of this benefit, a member is considered to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service. The last day of actual service shall be determined as provided in subsection (l) of this section. Upon the death of a member in service, the surviving spouse may make all purchases for creditable service as provided for under this Chapter for which the member had made application in writing prior to the date of death, provided that the date of death occurred prior to or within 60 days after notification of the cost to make the purchase. The term "in service" as used in this subsection includes a member in receipt of a benefit under the Disability Income Plan as provided in Article 6 of this Chapter.

Notwithstanding the foregoing, a member who is in receipt of Workers' Compensation during the period for which the member would have otherwise been eligible to receive short-term benefits, as provided in G.S. 135-105, and who dies on or after 181 days from the last day of the member's actual service but on or before the date the benefits as provided in G.S. 135-105 would have ended, shall be considered in service at the time of the member's death for the purpose of this benefit."



SECTION 2. G.S. 128-27(m) reads as rewritten:

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

- (1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
- b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., notwithstanding the requirement of obtaining age 50, ~~or~~
- b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b., notwithstanding the requirement of obtaining age 50, or
- c. The member had not commenced to receive a retirement allowance as provided under this Chapter.
- (2) The member had designated as the principal beneficiary to receive a return of his accumulated contributions one and only one person who is living at the time of his death.
- (3) The member had not instructed the Board of Trustees in writing that he did not wish the provisions of this subsection apply.

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

SECTION 3. This act is effective when it becomes law and applies to beneficiaries of law enforcement officers killed in the line of duty on and after January 1, 2007.

In the General Assembly read three times and ratified this the 8th day of June, 2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 1:47 p.m. this 16th day of June, 2009