

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

2

HOUSE BILL 766*
Committee Substitute Favorable 4/15/09

Short Title: Amend Survivor's Alternate Benefit.

(Public)

Sponsors:

Referred to:

March 25, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROVISION FOR THE SURVIVOR'S ALTERNATE BENEFIT
3 FOR MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
5 SYSTEM TO PROVIDE A BENEFIT FOR SURVIVORS OF LAW ENFORCEMENT
6 OFFICERS KILLED IN THE LINE OF DUTY AFTER THE COMPLETION OF
7 FIFTEEN YEARS OF SERVICE.

8 The General Assembly of North Carolina enacts:

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

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

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

34 For the purpose of this benefit, a member is considered to be in service at the date of his
35 death if his death occurs within 180 days from the last day of his actual service. The last day of
36 actual service shall be determined as provided in subsection (l) of this section. Upon the death
37 of a member in service, the surviving spouse may make all purchases for creditable service as



1 provided for under this Chapter for which the member had made application in writing prior to
2 the date of death, provided that the date of death occurred prior to or within 60 days after
3 notification of the cost to make the purchase. The term "in service" as used in this subsection
4 includes a member in receipt of a benefit under the Disability Income Plan as provided in
5 Article 6 of this Chapter.

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

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

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

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

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

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