

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1598\*  
Pensions & Retirement Committee Substitute Adopted 7/12/90  
Third Edition Engrossed 7/19/90

Short Title: Retiree's Increase.

(Public)

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Sponsors:

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Referred to:

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June 6, 1990

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE THE RETIREMENT FORMULA FOR MEMBERS AND  
2 BENEFICIARIES OF THE TEACHERS' AND STATE EMPLOYEES'  
3 RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES'  
4 RETIREMENT SYSTEM, AND TO PROVIDE AN INCREASE TO RETIREES  
5 OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM,  
6 THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE  
7 LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL  
8 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.  
9

10 The General Assembly of North Carolina enacts:

11 Section 1. The General Assembly of North Carolina finds that (1) retirees  
12 and beneficiaries of the Teachers' and State Employees' Retirement System, the Local  
13 Governmental Employees' Retirement System, the Consolidated Judicial Retirement  
14 System, and the Legislative Retirement System paid no State income tax on their  
15 benefits prior to 1989; (2) the tax policy of North Carolina provided for a tax  
16 exemption on all money in, or paid by, these systems prior to 1989; and (3)  
17 compensation is due the retirees and beneficiaries for the loss of the tax exemption,  
18 except for a \$4,000 exclusion, as much as possible within the limits of available  
19 resources.

20 Sec. 2. ♦G.S. 135-5(b11) reads as rewritten:

21 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,  
22 ~~1989-1989~~, but before July 1, 1990. – Upon retirement from service in accordance with

1 subsection (a) above, on or after July 1, 1989, but before July 1, 1990, a member shall  
2 receive the following service retirement allowance:

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

6 a. If the member's service retirement date occurs on or after his  
7 55th birthday, and completion of five years of creditable service  
8 as a law enforcement officer, or after the completion of 30 years  
9 of creditable service, the allowance shall be equal to one and  
10 sixty-three hundredths percent (1.63%) of his average final  
11 compensation, multiplied by the number of years of his  
12 creditable service.

13 b. This allowance shall also be governed by the provisions of G.S.  
14 135-5(b9)(1)b.

15 (2) A member who is not a law enforcement officer or an eligible former  
16 law enforcement officer shall receive a service retirement allowance  
17 computed as follows:

18 a. If the member's service retirement date occurs on or after his  
19 65th birthday upon the completion of five years of creditable  
20 service or after the completion of 30 years of creditable service  
21 or on or after his 60th birthday upon the completion of 25 years  
22 of creditable service, the allowance shall be equal to one and  
23 sixty-three hundredths percent (1.63%) of his average final  
24 compensation, multiplied by the number of years of creditable  
25 service.

26 b. This allowance shall also be governed by the provisions of G.S.  
27 135-5(b9)(2)b. c. and d."

28 Sec. 3. G.S. 135-5 is amended by adding a new subsection to read:

29 "(b12) Service Retirement Allowance of Members Retiring on or after July 1,  
30 1990. – Upon retirement from service in accordance with subsection (a) above, on or  
31 after July 1, 1990, a member shall receive the following service retirement allowance:

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

35 a. If the member's service retirement date occurs on or after his  
36 55th birthday, and completion of five years of creditable service  
37 as a law enforcement officer, or after the completion of 30 years  
38 of creditable service, the allowance shall be equal to one and  
39 sixty-four hundredths percent (1.64%) of his average final  
40 compensation, multiplied by the number of years of his  
41 creditable service.

42 b. This allowance shall also be governed by the provisions of G.S.  
43 135-5(b9)(1)b.

1           (2) A member who is not a law enforcement officer or an eligible former  
2 law enforcement officer shall receive a service retirement allowance  
3 computed as follows:

4           a. If the member's service retirement date occurs on or after his  
5 65th birthday upon the completion of five years of creditable  
6 service or after the completion of 30 years of creditable service  
7 or on or after his 60th birthday upon the completion of 25 years  
8 of creditable service, the allowance shall be equal to one and  
9 sixty-four hundredths percent (1.64%) of his average final  
10 compensation, multiplied by the number of years of creditable  
11 service.

12           b. This allowance shall also be governed by the provisions of G.S.  
13 135-5(b9)(2)b. c. and d."

14           Sec. 4. G.S. 135-5 is amended by adding a new subsection to read:

15           "(rr) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990.  
16 From and after July 1, 1990, the retirement allowance to or on account of beneficiaries  
17 on the retirement rolls as of June 1, 1990, shall be increased by six-tenths of one percent  
18 (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on  
19 the basis of the allowance payable and in effect on June 30, 1990, so as not to be  
20 compounded on any other increase granted by act of the 1989 Session of the General  
21 Assembly (1990 Regular Session)."

22           Sec. 5. G.S. 135-5 is amended by adding a new subsection to read:

23           "(ss) From and after July 1, 1990, the retirement allowance to or on account of  
24 beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased  
25 by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989, in  
26 accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1990, the  
27 retirement allowance to or on account of beneficiaries whose retirement commenced  
28 after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of  
29 six and one-tenth percent (6.1%) of the allowance payable as determined by the Board  
30 of Trustees based upon the number of months that a retirement allowance was paid  
31 between July 1, 1989, and June 30, 1990."

32           Sec. 6. G.S. 135-58(a) reads as rewritten:

33           "(a) Any member who retires under the provisions of subsection (a) or subsection  
34 (c) of G.S. 135-57 before July 1, 1990, after he either has attained his sixty-fifth  
35 birthday or has completed 24 years or more of creditable service shall receive an annual  
36 retirement allowance, payable monthly, which shall commence on the effective date of  
37 his retirement and shall be continued on the first day of each month thereafter during his  
38 lifetime, the amount of which shall be computed as the sum of (1), (2) and (3)  
39 following, provided that in no event shall the annual allowance payable to any member  
40 be greater than an amount which, when added to the allowance, if any, to which he is  
41 entitled under the Teachers' and State Employees' Retirement System, the Legislative  
42 Retirement System or the North Carolina Local Governmental Employees' Retirement  
43 System (prior in any case to any reduction for early retirement or for an optional mode  
44 of payment) would total three fourths of his final compensation:

- 1 (1) Four percent (4%) of his final compensation, multiplied by the  
2 number of years of his creditable service rendered as a justice of the  
3 Supreme Court or judge of the Court of Appeals;
- 4 (2) Three and one-half percent (3 1/2%) of his final compensation,  
5 multiplied by the number of years of his creditable service rendered as  
6 a judge of the superior court or as administrative officer of the courts;
- 7 (3) Three percent (3%) of his final compensation, multiplied by the  
8 number of years of his creditable service rendered as a judge of the  
9 district court, district attorney, or clerk of superior court."

10 Sec. 7. G.S. 135-58 is amended by adding a new subsection to read:

11 "(a1) Any member who retires under the provisions of subsection (a) or subsection  
12 (c) of G.S. 135-57 on or after July 1, 1990, after he either has attained his 65th birthday  
13 or has completed 24 years or more of creditable service shall receive an annual  
14 retirement allowance, payable monthly, which shall commence on the effective date of  
15 his retirement and shall be continued on the first day of each month thereafter during his  
16 lifetime, the amount of which shall be computed as the sum of (1), (2), and (3)  
17 following, provided that in no event shall the annual allowance payable to any member  
18 be greater than an amount which, when added to the allowance, if any, to which he is  
19 entitled under the Teachers' and State Employees' Retirement System, the Legislative  
20 Retirement System or the North Carolina Local Governmental Employees' Retirement  
21 System (prior in any case to any reduction for early retirement or for an optional mode  
22 of payment) would total three-fourths of his final compensation:

23 (1) Four and two-hundredths percent (4.02%) of his final  
24 compensation, multiplied by the number of years of his creditable  
25 service rendered as a justice of the Supreme Court or judge of the  
26 Court of Appeals;

27 (2) Three and fifty-two hundredths percent (3.52%) of his final  
28 compensation, multiplied by the number of years of his creditable  
29 service rendered as a judge of the superior court or as administrative  
30 officer of the courts;

31 (3) Three and two-hundredths percent (3.02%) of his final  
32 compensation, multiplied by the number of years of his creditable  
33 service rendered as a judge of the district court, district attorney, or  
34 clerk of superior court."

35 Sec. 8. G.S. 135-65 is amended by adding a new subsection to read:

36 "(k) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990.  
37 From and after July 1, 1990, the retirement allowance to or on account of beneficiaries  
38 on the retirement rolls as of June 1, 1990, shall be increased by six-tenths percent  
39 (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on  
40 the basis of the allowance payable and in effect on June 30, 1990, so as not to be  
41 compounded on any other increase granted by act of the 1989 Session of the General  
42 Assembly (1990 Regular Session)."

43 Sec. 9. G.S. 135-65 is amended by adding a new subsection to read:

1        "(1) From and after July 1, 1990, the retirement allowance to or on account of  
2 beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased  
3 by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989.  
4 Furthermore, from and after July 1, 1990, the retirement allowance to or on account of  
5 beneficiaries whose retirement commenced after July 1, 1989, but before June 30, 1990,  
6 shall be increased by a prorated amount of six and one-tenth percent (6.1%) of the  
7 allowance payable as determined by the Board of Trustees based upon the number of  
8 months that a retirement allowance was paid between July 1, 1989, and June 30, 1990."

9            Sec. 10. G.S. 120-4.21 reads as rewritten:

10        **"§ 120-4.21. Service retirement benefits.**

11        (a) Eligibility; Application. – Any member in service may retire with full  
12 benefits who has reached 65 years of age with five years of creditable service. Any  
13 member in service may retire with reduced benefits who has reached the age of 60 years  
14 with five years of creditable service. The member shall make written application to the  
15 Board of Trustees to retire on a service retirement allowance on the first day of the  
16 particular calendar month he designates. The designated date shall be no less than one  
17 day nor more than 90 days from the filing of the application. During this period of  
18 notification, a member may separate from service without forfeiting his retirement  
19 benefits.

20        (b) Computation. – Upon retirement from service in accordance with subsection  
21 (a) of this ~~section~~, section before July 1, 1990, a member shall receive a service  
22 retirement allowance computed as follows:

23            (1) For a member whose retirement date occurs on or after his 65th  
24 birthday and upon completion of five years of creditable service, four  
25 percent (4%) of his 'highest annual salary,' multiplied by the number  
26 of years of creditable service.

27            (2) For a member whose retirement date occurs on or after his 60th and  
28 before his 65th birthday and upon completion of five years of  
29 creditable service, computation as in subdivision (1) of this subsection,  
30 reduced by one-fourth of one percent (1/4 of 1%) for each month his  
31 retirement date precedes his 65th birthday.

32        (b1) Computation. – Upon retirement from service in accordance with subsection  
33 (a) of this section on or after July 1, 1990, a member shall receive a service retirement  
34 allowance computed as follows:

35            (1) For a member whose retirement date occurs on or after his  
36 65th birthday and upon completion of five years of creditable  
37 service, four and two-hundredths percent (4.02%) of his 'highest  
38 annual salary,' multiplied by the number of years of creditable  
39 service.

40            (2) For a member whose retirement date occurs on or after his  
41 60th and before his 65th birthday and upon completion of five years  
42 of creditable service, computation as in subdivision (1) of this  
43 subsection, reduced by one-fourth of one percent (1/4 of 1%) for  
44 each month his retirement date precedes his 65th birthday.

1 (c) Limitations. – In no event shall any member receive a service retirement  
2 allowance greater than seventy-five percent (75%) of his 'highest annual salary' nor  
3 shall he receive any service retirement allowance whatever while employed in a position  
4 that makes him a contributing member of any of the following retirement systems: The  
5 Teachers' and State Employees' Retirement System, the North Carolina Local  
6 Governmental Employees' Retirement System, the Law-Enforcement Officers'  
7 Retirement System, the Uniform Judicial Retirement System of North Carolina, the  
8 Uniform Solicitorial Retirement System of North Carolina or the Uniform Clerks of  
9 Court Retirement System of North Carolina. If he should become a member of any of  
10 these systems, payment of his service retirement allowance shall be suspended until he  
11 withdraws from membership in that system."

12 Sec. 11. G.S. 120-4.22A is amended by adding a new subsection to read:

13 "(f) In accordance with subsection (a) of this section, from and after July 1, 1990,  
14 the retirement allowance to or on account of beneficiaries whose retirement commenced  
15 on or before January 1, 1990, shall be increased by the same amount as provided to  
16 retired members and beneficiaries of the Teachers' and State Employees' Retirement  
17 System pursuant to the provisions of G.S. 135-5(rr) and (ss)."

18 Sec. 12. Of funds appropriated to the General Assembly, the sum of  
19 \$172,000 shall be transferred to the Legislative Retirement System to fund the  
20 provisions of subsections 9 and 10.

21 Sec. 13. G.S. 128-27(b11) reads as rewritten:

22 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,  
23 ~~1989-1989~~, but before July 1, 1990. – Upon retirement from service in accordance with  
24 subsection (a) above, on or after July 1, 1989, but before July 1, 1990, a member shall  
25 receive the following service retirement allowance:

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

29 a. If the member's service retirement date occurs on or after his  
30 55th birthday, and completion of five years of creditable service  
31 as a law enforcement officer, or after the completion of 30 years  
32 of creditable service, the allowance shall be equal to one and  
33 sixty-three hundredths percent (1.63%) of his average final  
34 compensation, multiplied by the number of years of his  
35 creditable service.

36 b. This allowance shall also be governed by the provisions of G.S.  
37 128-27(b8)(2).

38 (2) A member who is not a law enforcement officer or an eligible former  
39 law enforcement officer shall receive a service retirement allowance  
40 computed as follows:

41 a. If the member's service retirement date occurs on or after his  
42 65th birthday upon the completion of five years of creditable  
43 service or after the completion of 30 years of creditable service  
44 or on or after his 60th birthday upon the completion of 25 years

1 of creditable service, the allowance shall be equal to one and  
2 sixty-three hundredths percent (1.63%) of his average final  
3 compensation, multiplied by the number of years of creditable  
4 service.

5 b. This allowance shall also be governed by the provisions of G.S.  
6 128-27(b7)(2a) and (3)."

7 Sec. 14. G.S. 128-27 is amended by adding a new subsection to read:

8 "(b12) Service Retirement Allowance of Members Retiring on or after July 1,  
9 1990. – Upon retirement from service in accordance with subsection (a) above, on or  
10 after July 1, 1990, a member shall receive the following service retirement allowance:

11 (1) A member who is a law enforcement officer or an eligible former law  
12 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 55th birthday, and completion of five years of creditable service  
16 as a law enforcement officer, or after the completion of 30 years  
17 of creditable service, the allowance shall be equal to one and  
18 sixty-four hundredths percent (1.64%) of his average final  
19 compensation, multiplied by the number of years of his  
20 creditable service.

21 b. This allowance shall also be governed by the provisions of G.S.  
22 128-27(b8)(2).

23 (2) A member who is not a law enforcement officer or an eligible former  
24 law enforcement officer shall receive a service retirement allowance  
25 computed as follows:

26 a. If the member's service retirement date occurs on or after his  
27 65th birthday upon the completion of five years of creditable  
28 service or after the completion of 30 years of creditable service  
29 or on or after his 60th birthday upon the completion of 25 years  
30 of creditable service, the allowance shall be equal to one and  
31 sixty-four hundredths percent (1.64%) of his average final  
32 compensation, multiplied by the number of years of creditable  
33 service.

34 b. This allowance shall also be governed by the provisions of G.S.  
35 128-27(b7)(2a) and (3)."

36 Sec. 15. G.S. 128-27 is amended by adding a new subsection to read:

37 "(hh) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1990.  
38 From and after July 1, 1990, the retirement allowance to or on account of beneficiaries  
39 on the retirement rolls as of June 1, 1990, shall be increased by six-tenths of one percent  
40 (0.6%) of the allowance payable on June 1, 1990. This allowance shall be calculated on  
41 the basis of the allowance payable and in effect on June 30, 1990, so as not to be  
42 compounded on any other increase granted by act of the 1989 Session of the General  
43 Assembly (1990 Regular Session)."

44 Sec. 16. G.S. 128-27 is amended by adding a new subsection to read:

1        "(ii) From and after July 1, 1990, the retirement allowance to or on account of  
2 beneficiaries whose retirement commenced on or before July 1, 1989, shall be increased  
3 by six and one-tenth percent (6.1%) of the allowance payable on July 1, 1989, in  
4 accordance with G.S. 128-27(k). Furthermore, from and after July 1, 1990, the  
5 retirement allowance to or on account of beneficiaries whose retirement commenced  
6 after July 1, 1989, but before June 30, 1990, shall be increased by a prorated amount of  
7 six and one-tenth percent (6.1%) of the allowance payable as determined by the Board  
8 of Trustees based upon the number of months that a retirement allowance was paid  
9 between July 1, 1989, and June 30, 1990."

10                Sec. 17. This act shall become effective July 1, 1990.