

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 1033

Short Title: Fire Fighter Classifications.

(Public)

Sponsors: Representatives Hensley; Jeffus, Nesbitt, Stamey, and Wright.

Referred to: Pensions and Retirement.

April 19, 1993

A BILL TO BE ENTITLED

AN ACT TO DEFINE A PROFESSIONAL FIRE FIGHTER'S EMPLOYEE
RETIREMENT CLASSIFICATION AND BENEFIT ACCRUAL RATE FOR
MEMBERS AND BENEFICIARIES OF THE LOCAL GOVERNMENTAL
EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-21 reads as rewritten:

"§ 128-21. Definitions.

The following words and phrases as used in this Article, unless a different meaning is plainly required by the context, shall have the following meanings:

- (1) 'Accumulated contribution' shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest thereon, as provided in G.S. 128-30, subsection (b).
- (2) 'Actuarial equivalent' shall mean a benefit of equal value when computed at regular interest upon the basis of such mortality tables as shall be adopted by the Board of Trustees.
- (3) 'Annuity' shall mean payments for life derived from the accumulated contribution of a member. All annuities shall be payable in equal monthly installments.
- (4) 'Annuity reserve' shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed at regular interest upon the basis of such mortality tables as shall be adopted by the Board of Trustees.

- 1 (5) 'Average final compensation' shall mean the average annual
2 compensation, not including any terminal payments for unused sick
3 leave, of a member during the four consecutive calendar years of
4 creditable service producing the highest such average; but shall not
5 include any compensation, as determined by the Board of Trustees, for
6 the reimbursement of expenses or payments for housing or any other
7 allowances whether or not classified as salary and wages.
- 8 (6) 'Beneficiary' shall mean any person in receipt of a pension, an annuity,
9 a retirement allowance or other benefit as provided by this Article.
- 10 (7) 'Board of Trustees' shall mean the Board provided for in G.S. 128-28
11 to administer the Retirement System.
- 12 (7a) 'Compensation' shall mean all salaries and wages prior to any
13 reduction pursuant to sections 125, 401(k), 403(b), 414(h)(2), and 457
14 of the Internal Revenue Code, not including any terminal payments for
15 unused sick leave, derived from public funds which are earned by a
16 member of the Retirement System for service as an employee in the
17 unit of the Retirement System for which he is performing full-time
18 work. 'Compensation' shall not include any payment, as determined by
19 the Board of Trustees, for the reimbursement of expenses or payments
20 for housing or any other allowances whether or not classified as salary
21 and wages.
- 22 (8) 'Creditable service' shall mean 'prior service' plus 'membership service'
23 for which credit is allowable as provided in G.S. 128-26.
- 24 (9) 'Earnable compensation' shall mean the full rate of the compensation
25 that would be payable to an employee if he worked the full normal
26 working time, including any allowance of maintenance or in lieu
27 thereof received by the member.
- 28 (10) 'Employee' shall mean any person who is regularly employed in the
29 service of and whose salary or compensation is paid by the employer
30 as defined in subdivision (11) of this section, whether employed or
31 appointed for stated terms or otherwise, except teachers in the public
32 schools and except such employees who hold office by popular
33 election as are not required to devote a major portion of their time to
34 the duties of their office. In all cases of doubt the Board of Trustees
35 shall decide who is an employee.
- 36 (11) 'Employer' shall mean any county, incorporated city or town, the board
37 of alcoholic control of any county or incorporated city or town, the
38 North Carolina League of Municipalities, and the State Association of
39 County Commissioners. 'Employer' shall also mean any separate,
40 juristic political subdivision of the State as may be approved by the
41 Board of Trustees upon the advice of the Attorney General.
- 42 (11a) 'Filing' when used in reference to an application for retirement shall
43 mean the receipt of an acceptable application on a form provided by
44 the Retirement System.

- 1 (11b) 'Law Enforcement Officer' means a full-time paid employee of an
2 employer who is actively serving in a position with assigned primary
3 duties and responsibilities for prevention and detection of crime or for
4 the general enforcement of the criminal laws of the State or for serving
5 civil processes, and who possesses the power of arrest by virtue of an
6 oath administered under the authority of the State.
- 7 (12) 'Medical board' shall mean the board of physicians provided for in
8 G.S. 128-28, subsection (l).
- 9 (13) 'Member' shall mean any person included in the membership of the
10 Retirement System as provided in G.S. 128-24.
- 11 (14) 'Membership service' shall mean service as an employee rendered
12 while a member of the Retirement System.
- 13 (15) 'Pension' shall mean payments for life derived from money provided
14 by the employer. All pensions shall be payable in equal monthly
15 installments.
- 16 (16) 'Pension reserve' shall mean the present value of all payments to be
17 made on account of any pension or benefit in lieu of any pension
18 computed at regular interest upon the basis of such mortality tables as
19 shall be adopted by the Board of Trustees.
- 20 (17) 'Prior service' shall mean the service of a member rendered before the
21 date he becomes a member of the System, certified on his prior service
22 certificate and allowable as provided by G.S. 128-26.
- 23 (17a) 'Professional fire fighter' means an individual (i) who is a full-time,
24 paid employee of a fire department certified by the North Carolina
25 Department of Insurance and (ii) who is actively serving in a position
26 with assigned primary duties and responsibilities for the prevention,
27 detection, and suppression of fire.
- 28 (18) 'Regular interest' shall mean interest compounded annually at such rate
29 as shall be determined by the Board of Trustees in accordance with
30 G.S. 128-29, subsection (b).
- 31 (19) 'Retirement' shall mean withdrawal from active service with a
32 retirement allowance granted under the provisions of this Article. In
33 order for a member's retirement to become effective in any month, the
34 member must render no service at any time during that month.
- 35 (20) 'Retirement allowance' shall mean the sum of the annuity and the
36 pension, or any optional benefit payable in lieu thereof.
- 37 (21) 'Retirement System' shall mean the North Carolina Local
38 Governmental Employees' Retirement System as defined in this
39 Article.
- 40 (22) 'Service' shall mean service as an employee as described in subdivision
41 (10) of this section and paid for by the employer as described in
42 subdivision (11) of this section.

(23) 'Year' shall mean the regular fiscal year beginning July 1, and ending June 30; in the following calendar year unless otherwise defined by regulation of the Board of Trustees."

Sec. 2. G.S. 128-27 is amended by adding a new subsection to read:

"(b14) Service Retirement Allowance of Professional Fire Fighters Retiring on or After July 1, 1993. – Upon retirement from service, in accordance with subsection (a) of this section, on or after July 1, 1993, a member who is a professional fire fighter or an eligible former professional fire fighter shall receive a service retirement allowance computed in the following manner:

(1) If the member's service retirement date occurs as a professional fire fighter, and after the completion of 25 years of creditable professional fire-fighter service, the allowance shall be equal to two and one-half percent (2.5%) of his average final compensation, multiplied by the number of years of his creditable service.

(2) In lieu of the benefits provided in subdivision (1) of this subsection, 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 this Article, after completing 15 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.

<u>Age at Retirement</u>	<u>Percentage Reduction</u>
<u>59</u>	<u>4</u>
<u>58</u>	<u>8</u>
<u>57</u>	<u>12</u>
<u>56</u>	<u>16</u>
<u>55</u>	<u>20</u>
<u>54</u>	<u>24</u>
<u>53</u>	<u>28</u>
<u>52</u>	<u>32</u>
<u>51</u>	<u>36</u>
<u>50</u>	<u>40</u>

(3) If the member's service retirement date occurs as a professional fire fighter and upon the completion of 25 years of creditable service but not all of which occurred as a professional fire fighter, the member shall be eligible to retire as a professional fire fighter under this

1 section, but his retirement allowance shall be computed in subdivision
2 (1) of this subsection only for the years of creditable service as a
3 professional fire fighter.

- 4 (4) If a member's service retirement date occurs upon the completion of 25
5 years of creditable service but does not occur as a professional fire
6 fighter, the member shall not be eligible to retire as a professional fire
7 fighter under this subsection.

8 The member's retirement allowance pertaining to the service as a
9 professional fire fighter nevertheless shall be equal to two and one-half
10 percent (2.5%) of the member's average final compensation multiplied
11 by the number of his years of creditable service.

- 12 (5) In lieu of the benefits provided in subdivisions (1) through (4) of this
13 subsection, any member who is a professional fire fighter at the time of
14 separation from service prior to the attainment of the age of 50 years,
15 for any reason other than death or disability as provided in this Article,
16 after completing 15 or more years of creditable service in this capacity
17 prior to separation from service, and who leaves his total accumulated
18 contributions in this System may elect to retire on a deferred early
19 retirement allowance upon attaining the age of 50 years or at any time
20 thereafter; provided, that the member may commence retirement only
21 upon written application to the Board of Trustees setting forth at what
22 time, as of the first day of a calendar month, not less than one day nor
23 more than 90 days subsequent to the execution and filing thereof, he
24 desires to commence retirement. The deferred early retirement
25 allowance shall be computed in accordance with the service retirement
26 provisions of this Article pertaining to professional fire fighters.

- 27 (6) In lieu of the benefits provided in subdivisions (1) through (4) of this
28 subsection, any member who is a professional fire fighter at the time of
29 separation from service prior to the attainment of the age of 55 years,
30 for any reason other than death or disability as provided in this Article,
31 after completing five or more years of creditable service in this
32 capacity prior to separation from service, and who leaves his total
33 accumulated contributions in this System may elect to retire on a
34 deferred early retirement allowance upon attaining the age of 55 years
35 or at any time thereafter; provided, that the member may commence
36 retirement only upon written application to the Board of Trustees
37 setting forth at what time, as of the first day of a calendar month not
38 less than one day nor more than 90 days subsequent to the execution
39 and filing thereof, he desires to commence retirement. The deferred
40 early retirement allowance shall be computed in accordance with the
41 service retirement provisions of this Article pertaining to professional
42 fire fighters."

43 Sec. 3. This act is effective upon ratification.