

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 874\*

Short Title: Professional Firefighters' Retirement.

(Public)

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Sponsors: Senator Ballance.

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Referred to: Pensions & Retirement and Aging.

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April 13, 1999

A BILL TO BE ENTITLED

AN ACT TO DEFINE A PROFESSIONAL FIREFIGHTERS' 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 is amended by adding a new subdivision to read:

"(17a) Professional firefighter means a full-time, paid employee of an employer, maintaining a fire department certified by the North Carolina Department of Insurance, who is actively serving in a position with assigned primary duties and responsibilities for the prevention, detection, and suppression of fire."

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 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

1 accumulated contributions in said System shall have the right to  
 2 retire on a deferred retirement allowance upon attaining the age  
 3 of 60 years; provided that such member may retire only upon  
 4 written application to the Board of Trustees setting forth at what  
 5 time, not less than one day nor more than 90 days subsequent to  
 6 the execution and filing thereof, he desires to be retired; and  
 7 further provided that in the case of a member who so separates  
 8 from service on or after July 1, 1967, the aforesated requirement  
 9 of 15 or more years of creditable service shall be reduced to 12 or  
 10 more years of creditable service; and further provided that in the  
 11 case of a member who so separates from service on or after July  
 12 1, 1971, or whose account is active on July 1, 1971, the  
 13 aforesated requirement of 12 or more years of creditable service  
 14 shall be reduced to five or more years of creditable service. Such  
 15 deferred retirement allowance shall be computed in accordance  
 16 with the service retirement provisions of this Article pertaining to  
 17 a member who is not a law enforcement officer or eligible former  
 18 law enforcement officer.

19 b. In lieu of the benefits provided in paragraph a of this subdivision,  
 20 any member who separates from service prior to the attainment  
 21 of the age of 60 years, for any reason other than death or  
 22 retirement for disability as provided in G.S. 128-27(c), after  
 23 completing 20 or more years of creditable service, and who  
 24 leaves his total accumulated contributions in said System may  
 25 elect to retire on an early retirement allowance upon attaining the  
 26 age of 50 years or at any time thereafter; provided that such  
 27 member may so retire only upon written application to the Board  
 28 of Trustees setting forth at what time, not less than one day nor  
 29 more than 90 days subsequent to the execution and filing thereof,  
 30 he desires to be retired. Such early retirement allowance so  
 31 elected shall be equal to the deferred retirement allowance  
 32 otherwise payable at the attainment of the age of 60 years  
 33 reduced by the percentage thereof indicated below.

34	Age at Retirement	Percentage Reduction
35	59	7
36	58	14
37	57	20
38	56	25
39	55	30
40	54	35
41	53	39
42	52	43
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|  | 51 | 46 |
|  | 50 | 50 |
- b1. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer or a professional firefighter 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 or professional firefighters.
- b2. In lieu of the benefits provided in paragraphs a and b of this subdivision, any member who is a law enforcement officer or professional firefighter 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 days subsequent to the execution and filing thereof, he desires to commence retirement. The deferred service retirement allowance shall be computed in accordance with the service retirement provisions of this Article pertaining to law enforcement ~~officers~~ officers or professional firefighters.
- b3. Deferred retirement allowance of members retiring on or after July 1, 1995. – In lieu of the benefits provided in paragraphs a. and b. of this subdivision, any member who separates from service prior to attainment of age 60 years, after completing 20 or more years of creditable service, and who leaves his total

1 accumulated contributions in said System, may elect to retire on  
2 a deferred retirement allowance upon attaining the age of 50  
3 years or any time thereafter; provided that such member may so  
4 retire only upon written application to the Board of Trustees  
5 setting forth at what time, not less than one day nor more than 90  
6 days subsequent to the execution and filing thereof, he desires to  
7 be retired. Such deferred retirement allowance shall be computed  
8 in accordance with the service retirement provisions of this  
9 Article pertaining to a member who is not a law enforcement  
10 officer or an eligible former law enforcement officer.

11 c. Should a beneficiary who retired on an early or service  
12 retirement allowance be reemployed, or otherwise engaged to  
13 perform services, by an employer participating in the Retirement  
14 System on a part-time, temporary, interim, or on fee-for-service  
15 basis, whether contractual or otherwise, and if such beneficiary  
16 earns an amount in any calendar year which exceeds fifty percent  
17 (50%) of the reported compensation, excluding terminal  
18 payments, during the 12 months of service preceding the  
19 effective date of retirement, or twenty thousand dollars  
20 (\$20,000), whichever is greater, as hereinafter indexed, then the  
21 retirement allowance shall be suspended as of the first day of the  
22 month following the month in which the reemployment earnings  
23 exceed the amount above, for the balance of the calendar year.  
24 The retirement allowance of the beneficiary shall be reinstated as  
25 of January 1 of each year following suspension. The amount that  
26 may be earned before suspension shall be increased on January 1  
27 of each year by the ratio of the Consumer Price Index to the  
28 Index one year earlier, calculated to the nearest tenth of a percent  
29 (1/10 of 1%).

30 d. Should a beneficiary who retired on an early or service  
31 retirement allowance be restored to service as an employee, then  
32 the retirement allowance shall cease as of the first day of the  
33 month following the month in which the beneficiary is restored  
34 to service and the beneficiary shall become a member of the  
35 Retirement System and shall contribute thereafter as allowed by  
36 law at the uniform contribution payable by all members.

37 Upon his subsequent retirement, he shall be paid a  
38 retirement allowance determined as follows:

39 1. For a member who earns at least three years' membership  
40 service after restoration to service, the retirement  
41 allowance shall be computed on the basis of his  
42 compensation and service before and after the period of  
43 prior retirement without restriction; provided, that if the

1 prior allowance was based on a social security leveling  
2 payment option, the allowance shall be adjusted  
3 actuarially for the difference between the amount received  
4 under the optional payment and what would have been  
5 paid if the retirement allowance had been paid without  
6 optional modification.

- 7 2. For a member who does not earn three years' membership  
8 service after restoration to service, the retirement  
9 allowance shall be equal to the sum of the retirement  
10 allowance to which he would have been entitled had he  
11 not been restored to service, without modification of the  
12 election of an optional allowance previously made, and  
13 the retirement allowance that results from service earned  
14 since being restored to service; provided, that if the prior  
15 retirement allowance was based on a social security  
16 leveling payment option, the prior allowance shall be  
17 adjusted actuarially for the difference between the amount  
18 that would have been paid for each month had the  
19 payment not been suspended and what would have been  
20 paid if the retirement allowance had been paid without  
21 optional modification."

22 Section 3. G.S. 128-27(a) reads as rewritten:

23 "(a) Service Retirement Benefits. –

- 24 (1) Any member may retire upon written application to the Board of  
25 Trustees setting forth at what time, as of the first day of a calendar  
26 month, not less than one day nor more than 90 days subsequent to the  
27 execution and filing thereof, he desires to be retired: Provided, that the  
28 said member at the time so specified for his retirement shall have  
29 attained the age of 60 years and have at least five years of creditable  
30 service or shall have completed 30 years of creditable service, or if a  
31 ~~fireman, he~~ professional firefighter, the member shall have attained the  
32 age of 55 years and have at least five years of creditable service. completed  
33 at least 25 years of creditable service provided that the last five years of  
34 creditable service is as a professional firefighter.
- 35 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 36 (3) Repealed by Session Laws 1971, c. 325, s. 12.
- 37 (4) Any member who was in service October 8, 1981, who had attained 60  
38 years of age, may retire upon written application to the Board of  
39 Trustees setting forth at what time, as of the first day of a calendar  
40 month, not less than one day nor more than 90 days subsequent to the  
41 execution and filing thereof, he desires to be retired.
- 42 (5) Any member who is a law enforcement ~~officer,~~ officer or professional  
43 firefighter, and who attains age 50 and completes 15 or more years of

1           creditable service in this capacity or who attains age 55 and completes  
2           five or more years of creditable service in this capacity, may retire upon  
3           written application to the Board of Trustees setting forth at what time, as  
4           of the first day of a calendar month, not less than one day nor more than  
5           90 days subsequent to the execution and filing thereof, ~~he~~ the member  
6           desires to be retired; provided, also, any member who has met the  
7           conditions required by this ~~subdivision~~ section but does not retire, and  
8           later becomes an employee other than as a law enforcement ~~officer,~~  
9           officer or professional firefighter, continues to have the right to  
10          commence retirement."

11          Section 4. G.S. 128-27 is amended by adding a new subsection to read:

12          "(b18) Service Retirement Allowance of Professional Firefighters Retiring on or  
13 After July 1, 2000. – Upon retirement from service, in accordance with subsection (a) of  
14 this section, on or after July 1, 2000, a member who is a professional firefighter or an  
15 eligible former professional firefighter shall receive the following service retirement  
16 allowance:

17          (1) If the member's service retirement date occurs on or after the member's  
18 55th birthday, and completion of five years of creditable service as a  
19 professional firefighter, or after the completion of 25 years of creditable  
20 service, provided that the last five years of creditable service are as a  
21 professional firefighter, the allowance shall be equal to the sum of:

22          a. One and seventy-seven hundredths percent (1.77%) of the  
23 member's average final compensation, multiplied by the number  
24 of years of creditable service earned by the member in service  
25 other than as a professional firefighter and for service as a  
26 professional firefighter, plus

27          b. Two and fifty hundredths percent (2.50%) of the member's  
28 average final compensation, multiplied by the number of years of  
29 creditable service earned as a professional firefighter on or after  
30 July 1, 1987.

31          (2) If the member's service retirement date occurs after the member's 50th  
32 birthday and before the member's 55th birthday with 15 or more years  
33 of creditable service as a professional firefighter and prior to completion  
34 of 25 years of creditable service, the member's retirement allowance  
35 shall be equal to the greater of:

36          a. The service retirement allowance payable under G.S. 128-  
37 27(b16)(1) reduced by one-third of one percent (1/3 of 1%)  
38 thereof for each month by which his retirement date precedes the  
39 first day of the month coincident with or next following the  
40 month the member would have attained his 55th birthday; or

41          b. The service retirement allowance as computed under G.S. 128-  
42 27(b16)(1) reduced by five percent (5%) times the difference

1                   between 25 years and the member's creditable service at  
2                   retirement."

3           Section 5. G.S. 128-30(d) is amended by adding a new subdivision to read:

4           "(10) Notwithstanding the foregoing provisions of this subsection, beginning  
5           with the December 31, 1998, valuation, the actuary shall determine an  
6           additional 'accrued liability contribution' on account of each employer's  
7           professional firefighters. This contribution shall be that percentage of  
8           the professional firefighters' compensation necessary to liquidate the  
9           'existing unfunded accrued liability' over a period of years to be  
10           determined by the Board of Trustees. The 'existing unfunded accrued  
11           liability' for each employer shall be equal to the accrued liability for  
12           additional benefits payable to each employer's professional firefighters  
13           who are members of the Retirement System on December 31, 1999.  
14           The 'accrued liability contribution' determined on the basis of this  
15           subdivision shall be added to that determined under subdivisions (3) and  
16           (9) of this subsection and shall be included in the total amount payable  
17           under subdivision (5) of this subsection."

18           Section 6. This act becomes effective January 1, 2000, and applies to persons  
19           retiring on or after that date.