

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H.B. 1195
May 21, 2014
HOUSE PRINCIPAL CLERK

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HOUSE DRH40153-LL-194 (03/27)

Short Title: Fiscal Integrity/Pension-Spiking Prevention. (Public)

Sponsors: Representatives Collins and S. Ross (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT ANTI-PENSION-SPIKING LEGISLATION BY ESTABLISHING A
3 CONTRIBUTION-BASED BENEFIT CAP, TO ALLOW MEMBERS OF THE
4 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE LOCAL
5 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM WHO LEAVE
6 EMPLOYMENT WITHIN FIVE YEARS TO RECEIVE A RETURN OF THEIR
7 CONTRIBUTIONS WITH ACCUMULATED INTEREST, AND TO RETURN TO A
8 FIVE-YEAR VESTING PERIOD FOR MEMBERS OF THE TEACHERS' AND STATE
9 EMPLOYEES' RETIREMENT SYSTEM AND THE CONSOLIDATED JUDICIAL
10 RETIREMENT SYSTEM WHO BECAME MEMBERS ON OR AFTER AUGUST 1,
11 2011, AND MAKE A CONFORMING CHANGE TO THE SPECIAL SEPARATION
12 ALLOWANCE FOR LAW ENFORCEMENT OFFICERS.

13 The General Assembly of North Carolina enacts:

14 **SECTION 1.(a)** G.S. 135-5 is amended by adding a new subsection to read:

15 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other
16 provision of this section, every service retirement allowance provided under this section for
17 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a
18 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a
19 contribution-based benefit cap factor recommended by the actuary, based upon actual
20 experience, such that no more than three-quarters of one percent (0.75%) of retirement
21 allowances are expected to be capped. The Board of Trustees shall modify such factors every
22 five years, as shall be deemed necessary, based upon the five-year experience study as required
23 by G.S. 135-6(n). Prior to establishing a service retirement allowance under this section, the
24 Board shall:

- 25 (1) Determine an amount equal to the member's accumulated contributions as
26 required under G.S. 135-8(b)(1) for all years during which the member
27 earned membership service used in the calculation of the retirement
28 allowance that the member would receive under this section.
29 (2) Determine the amount of a single life annuity that is the actuarial equivalent
30 of the amount determined under subdivision (1) of this subsection, adjusted
31 for the age of the member at the time of retirement or, when appropriate, the
32 age at the time of the member's death.
33 (3) Multiply the annuity amount determined under subdivision (2) of this
34 subsection by the contribution-based benefit cap factor.
35 (4) Determine the amount of the retirement allowance that results from the
36 member's membership service.



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1 The product of the multiplication in subdivision (3) of this subsection is the member's
2 contribution-based benefit cap. If the amount determined under subdivision (4) of this
3 subsection exceeds the member's contribution-based benefit cap, the member's retirement
4 allowance shall be reduced by an amount equal to the difference between the contribution-
5 based benefit cap and the amount determined under subdivision (4) of this subsection.

6 Notwithstanding the foregoing, the retirement allowance of a member with an average final
7 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed,
8 shall not be subject to the contribution-based benefit cap. The minimum average final
9 compensation necessary for a retirement allowance to be subject to the contribution-based
10 benefit cap shall be increased on January 1 each year by the percent change between the
11 December Consumer Price Index in the year prior to retirement and the December Consumer
12 Price Index in the year most recently ended, calculated to the nearest tenth of a percent (0.1%),
13 provided that this percent change is positive.

14 Notwithstanding the foregoing, the retirement allowance of a member who became a
15 member before January 1, 2015, or who has not earned at least five years of membership
16 service in the Retirement System after January 1, 2015, shall not be reduced; however, the
17 member's last employer shall be required to make an additional contribution as specified in
18 G.S. 135-8(f)(2)f., if applicable."

19 **SECTION 1.(b)** G.S. 128-27 is amended by adding a new section to read:

20 "(a3) Anti-Pension-Spiking Contribution-Based Benefit Cap. – Notwithstanding any other
21 provision of this section, every service retirement allowance provided under this section for
22 members who retire on or after January 1, 2015, is subject to adjustment pursuant to a
23 contribution-based benefit cap under this subsection. The Board of Trustees shall adopt a
24 contribution-based benefit cap factor recommended by the actuary, based upon actual
25 experience, such that no more than three-quarters of one percent (0.75%) of retirement
26 allowances are expected to be capped. The Board of Trustees shall modify such factors every
27 five years, as shall be deemed necessary, based upon the five-year experience study as required
28 by G.S. 128-28(o).

29 Prior to establishing a service retirement allowance under this section, the Board shall:

- 30 (1) Determine an amount equal to the member's accumulated contributions as
31 required under G.S. 128-30(b)(1) for all years during which the member
32 earned membership service used in the calculation of the retirement
33 allowance that the member would receive under this section.
- 34 (2) Determine the amount of a single life annuity that is the actuarial equivalent
35 of the amount determined under subdivision (1) of this subsection, adjusted
36 for the age of the member at the time of retirement or, when appropriate, the
37 age at the time of the member's death.
- 38 (3) Multiply the annuity amount determined under subdivision (2) of this
39 subsection by the contribution-based benefit cap factor.
- 40 (4) Determine the amount of the retirement allowance that results from the
41 member's membership service.

42 The product of the multiplication in subdivision (3) of this subsection is the member's
43 contribution-based benefit cap. If the amount determined under subdivision (4) of this
44 subsection exceeds the member's contribution-based benefit cap, the member's retirement
45 allowance shall be reduced by an amount equal to the difference between the contribution-
46 based benefit cap and the amount determined under subdivision (4) of this subsection.

47 Notwithstanding the foregoing, the retirement allowance of a member with an average final
48 compensation of less than one hundred thousand dollars (\$100,000), as hereinafter indexed,
49 shall not be subject to the contribution-based benefit cap. The minimum average final
50 compensation necessary for a retirement allowance to be subject to the contribution-based
51 benefit cap shall be increased on January 1 each year by the percent change between the

1 December Consumer Price Index in the year prior to retirement and the December Consumer
2 Price Index in the year most recently ended, calculated to the nearest tenth of a percent (0.1%),
3 provided that this percent change is positive.

4 Notwithstanding the foregoing, the retirement allowance of a member who became a
5 member before January 1, 2015, or who has not earned at least five years of membership
6 service in the Retirement System after January 1, 2015, shall not be reduced; however, the
7 member's last employer shall be required to make an additional contribution as specified in
8 G.S. 128-30(g)(2)b., if applicable."

9 **SECTION 1.(c)** G.S. 135-4 is amended by adding a new subsection to read:

10 "(jj) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
11 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established
12 in G.S. 135-5(a3), the retirement system shall notify the member and the member's employer
13 that the member's retirement allowance has been capped. The retirement system shall compute
14 and notify the member and the member's employer of the total additional amount the member
15 would need to contribute in order to make the member not subject to the contribution-based
16 benefit cap. This total additional amount shall be the actuarial equivalent of a single life annuity
17 adjusted for the age of the member at the time of retirement, or when appropriate, the age at the
18 time of the member's death that would have had to have been purchased to increase the
19 member's benefit to the pre-cap level. The member shall have until 90 days after notification
20 regarding this additional amount or until 90 days after the effective date of retirement,
21 whichever is later, to submit a lump sum payment to the annuity savings fund in order for the
22 retirement system to restore the retirement allowance to the uncapped amount. Nothing
23 contained in this subsection shall prevent an employer from paying all or part of the cost of the
24 amount necessary to restore the member's retirement allowance to the pre-cap amount."

25 **SECTION 1.(d)** G.S. 128-26 is amended by adding a new subsection to read:

26 "(y) Contribution-Based Benefit Cap Purchase Provision. – If a member's retirement
27 allowance is subject to an adjustment pursuant to the contribution-based benefit cap established
28 in G.S. 128-27(a3), the retirement system shall notify the member and the member's employer
29 that the member's retirement allowance has been capped. The retirement system shall compute
30 and notify the member and the member's employer of the total additional amount the member
31 would need to contribute in order to make the member not subject to the contribution-based
32 benefit cap. This total additional amount shall be the actuarial equivalent of a single life annuity
33 adjusted for the age of the member at the time of retirement, or when appropriate, the age at the
34 time of the member's death that would have had to have been purchased to increase the
35 member's benefit to the pre-cap level. The member shall have until 90 days after notification
36 regarding this additional amount or until 90 days after the effective date of retirement,
37 whichever is later, to submit a lump sum payment to the annuity savings fund in order for the
38 retirement system to restore the retirement allowance to the uncapped amount. Nothing
39 contained in this subsection shall prevent an employer from paying all or part of the cost of the
40 amount necessary to restore the member's retirement allowance to the pre-cap amount."

41 **SECTION 1.(e)** G.S. 135-8(f)(2) is amended by adding a new sub-subdivision to
42 read:

43 "f. Each employer shall transmit to the Retirement System on account of
44 each member who retires on or after January 1, 2015, having earned
45 his last month of membership service as an employee of that
46 employer the lump sum payment, as calculated under G.S. 135-4(jj),
47 that would have been necessary in order for the retirement system to
48 restore the member's retirement allowance to the pre-cap amount.
49 Employers are not required to make contributions on account of any
50 retiree who became a member on or after January 1, 2015, and who

1 earned at least five years of membership service in the Retirement
2 System after January 1, 2015.

3 Under such rules as the Board of Trustees shall adopt, the
4 Retirement System shall report monthly to each employer a list of
5 those members for whom the employer made a contribution to the
6 Retirement System in the preceding month that are most likely to
7 require an additional employer contribution should they elect to retire
8 in the following 12 months, if applicable."

9 **SECTION 1.(f)** G.S.128-30(g)(2) reads as rewritten:

10 "(2) The collections of employers' contributions shall be made as follows:

11 a. Upon the basis of each actuarial valuation provided herein the Board
12 of Trustees shall annually prepare and certify to each employer a
13 statement of the total amount necessary for the ensuing fiscal year to
14 the pension accumulation fund as provided under subsection (d) of
15 this section. Such employer contributions shall be transmitted to the
16 secretary-treasurer of the Board of Trustees together with the
17 employee deductions as provided under sub-subdivision b. of
18 subdivision (1) of this subsection.

19 b. Each employer shall transmit to the Retirement System on account of
20 each member who retires on or after January 1, 2015, having earned
21 his last month of membership service as an employee of that
22 employer the lump sum payment, as calculated under G.S. 128-26(y),
23 that would have been necessary in order for the retirement system to
24 restore the member's retirement allowance to the pre-cap amount.
25 Employers are not required to make contributions on account of any
26 retiree who became a member on or after January 1, 2015, and who
27 earned at least five years of membership service in the Retirement
28 System after January 1, 2015.

29 Under such rules as the Board of Trustees shall adopt, the
30 Retirement System shall report monthly to each employer a list of
31 those members for whom the employer made a contribution to the
32 Retirement System in the preceding month that are most likely to
33 require an additional employer contribution should they elect to retire
34 in the following 12 months, if applicable."

35 **SECTION 2.(a)** G.S. 135-5(f) reads as rewritten:

36 "(f) Return of Accumulated Contributions. – Should a member cease to be a teacher or
37 State employee except by death or retirement under the provisions of this Chapter, he shall
38 upon submission of an application be paid, not earlier than 60 days from the date of termination
39 of service, his contributions, and ~~if he has attained at least five years of membership service or~~
40 ~~if termination of his membership service is involuntary as certified by the employer,~~ the
41 accumulated regular interest thereon, provided that he has not in the meantime returned to
42 service. Upon payment of such sum his membership in the System shall cease and, if he
43 thereafter again becomes a member, no credit shall be allowed for any service previously
44 rendered except as provided in G.S. 135-4, and such payment shall be in full and complete
45 discharge of any rights in or to any benefits otherwise payable hereunder. Upon receipt of proof
46 satisfactory to the Board of Trustees of the death, prior to retirement, of a member or former
47 member there shall be paid to such person or persons as he shall have nominated by electronic
48 submission prior to completing 10 years of service in a form approved by the Board of Trustees
49 or by written designation duly acknowledged and filed with the Board of Trustees, if such
50 person or persons are living at the time of the member's death, otherwise to the member's legal
51 representatives, the amount of his accumulated contributions at the time of his death, unless the

1 beneficiary elects to receive the alternate benefit under the provisions of (m) below. An
2 extension service employee who made contributions to the Local Governmental Employees'
3 Retirement System and the Teachers' and State Employees' Retirement System as a result of
4 dual employment may not be paid his accumulated contributions unless he is eligible to be paid
5 his accumulated contributions in both systems for the same period of service.

6 Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the
7 Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated
8 contributions to the Consolidated Judicial Retirement System or to the Supplemental
9 Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable
10 hereunder.

11 A member who is a participant or beneficiary of the Disability Income Plan of North
12 Carolina as is provided in Article 6 of this Chapter shall not be paid a return of accumulated
13 contributions, notwithstanding the member's status as an employee or teacher. Notwithstanding
14 any other provision of law to the contrary, a member who is a beneficiary of the Disability
15 Income Plan of North Carolina as provided in Article 6 of this Chapter and who is receiving
16 disability benefits under the transition provisions as provided in G.S. 135-112, shall not be
17 prohibited from receiving a return of accumulated contributions as provided in this subsection."

18 **SECTION 2.(b)** G.S. 128-27(f) reads as rewritten:

19 "(f) Return of Accumulated Contributions. – Should a member cease to be an employee
20 except by death or retirement under the provisions of this Chapter, he shall upon submission of
21 an application be paid, not earlier than 60 days from the date of termination of service, his
22 contributions ~~and, if he has attained at least five years of membership service or if termination~~
23 ~~of his membership service is involuntary as certified by the employer, and~~ the accumulated
24 regular interest thereon, provided that he has not in the meantime returned to service. Upon
25 payment of such sum his membership in the System shall cease and, if he thereafter again
26 becomes a member, no credit shall be allowed for any service previously rendered except as
27 provided in G.S. 128-26; and such payment shall be in full and complete discharge of any
28 rights in or to any benefits otherwise payable hereunder. Upon receipt of proof satisfactory to
29 the Board of Trustees of the death, prior to retirement, of a member or former member there
30 shall be paid to such person or persons as he shall have nominated by electronic submission
31 prior to completing 10 years of service in a form approved by the Board of Trustees or by
32 written designation duly acknowledged and filed with the Board of Trustees, if such person or
33 persons are living at the time of the member's death, otherwise to the member's legal
34 representatives, the amount of his accumulated contributions at the time of his death, unless the
35 beneficiary elects to receive the alternate benefit under the provisions of (m) below. An
36 extension service employee who made contributions to the Local Governmental Employees'
37 Retirement System and the Teachers' and State Employees' Retirement System as a result of
38 dual employment may not be paid his accumulated contributions unless he is eligible to be paid
39 his accumulated contributions in both systems for the same period of service.

40 Pursuant to the provisions of G.S. 135-56.2, a member who is also a member of the
41 Consolidated Judicial Retirement System may irrevocably elect to transfer any accumulated
42 contributions to the Consolidated Judicial Retirement System or to the Supplemental
43 Retirement Income Plan and forfeit any rights in or to any benefits otherwise payable
44 hereunder."

45 **SECTION 2.(c)** G.S. 120-4.25 reads as rewritten:

46 **"§ 120-4.25. Return of accumulated contributions.**

47 If a member ceases to be a member of the General Assembly except by death or retirement,
48 he shall, upon submission of an application, be paid not earlier than 60 days following the date
49 of termination of ~~service, the sum of his contributions if he has less than five years of creditable~~
50 ~~service, or service~~ the sum of his accumulated contributions ~~if he has five or more years of~~
51 ~~creditable service,~~ provided he has not in the meantime returned to service. Upon payment of

1 this sum his membership in the System ceases. If he becomes a member afterwards, no credit
2 shall be allowed for any service previously rendered except as provided in G.S. 120-4.14 and
3 the payment shall be in full and complete discharge of any rights in or to any benefits otherwise
4 payable under this Article. Upon receipt of proof satisfactory to the Board of Trustees of the
5 death, prior to retirement, of a member or former member, there shall be paid to the person or
6 persons he nominated by electronic submission prior to completing 10 years of service in a
7 form approved by the Board of Trustees or by written designation duly acknowledged and filed
8 with the Board of Trustees, if the person or persons are living at the time of the member's death,
9 otherwise to the member's legal representatives, the amount of his accumulated contributions at
10 the time of his death, unless the beneficiary elects to receive the alternate benefit under the
11 provisions of G.S. 120-4.28."

12 **SECTION 2.(d)** G.S. 135-62(a) reads as rewritten:

13 "(a) Should a member cease membership service otherwise than by death or retirement
14 under the provisions of this Article, he shall, upon submission of an application, be paid, not
15 earlier than 60 days from the date of termination of service, his contributions ~~and, if he has~~
16 ~~attained at least five years of membership service or if termination of his membership service is~~
17 ~~involuntary as certified by the employer, and~~ the accumulated regular interest thereon, provided
18 that he has not in the meantime returned to service as a judge. Upon payment of such
19 accumulated contributions his membership in the Retirement System shall cease and, if he
20 thereafter again becomes a member, no credit shall be allowed for any service previously
21 rendered, except as otherwise provided in G.S. 135-56(b). Any such payment of a member's
22 accumulated contributions shall be in full and complete discharge of any rights in or to any
23 benefits otherwise payable under this Article."

24 **SECTION 3.(a)** G.S. 135-3(8) reads as rewritten:

25 "(8) The provisions of this subsection (8) shall apply to any member whose
26 membership is terminated on or after July 1, 1963 and who becomes entitled
27 to benefits hereunder in accordance with the provisions hereof.

- 28 a. Notwithstanding any other provision of this Chapter, any member
29 ~~who became a member prior to August 1, 2011, and~~ who separates
30 from service prior to the attainment of the age of 60 years for any
31 reason other than death or retirement for disability as provided in
32 G.S. 135-5(c), after completing 15 or more years of creditable
33 service, and who leaves his total accumulated contributions in said
34 System shall have the right to retire on a deferred retirement
35 allowance upon attaining the age of 60 years; provided that such
36 member may retire only upon electronic submission or written
37 application to the Board of Trustees setting forth at what time, not
38 less than one day nor more than 120 days subsequent to the execution
39 and filing thereof, he desires to be retired; and further provided that
40 in the case of a member who so separates from service on or after
41 July 1, 1967, or whose account is active on July 1, 1967, or has not
42 withdrawn his contributions, the aforesated requirement of 15 or
43 more years of creditable service shall be reduced to 12 or more years
44 of creditable service; and further provided that in the case of a
45 member who so separates from service on or after July 1, 1971, or
46 whose account is active on July 1, 1971, the aforesated requirement
47 of 12 or more years of creditable service shall be reduced to five or
48 more years of creditable service. Such deferred retirement allowance
49 shall be computed in accordance with the service retirement
50 provisions of this Article pertaining to a member who is not a law
51 enforcement officer or an eligible former law enforcement officer.

1 Notwithstanding the foregoing, any member whose services as a
 2 teacher or employee are terminated for any reason other than
 3 retirement, who becomes employed by a nonprofit, nonsectarian
 4 private school in North Carolina below the college level within one
 5 year after such teacher or employee has ceased to be a teacher or
 6 employee, may elect to leave his total accumulated contributions in
 7 the Teachers' and State Employees' Retirement System during the
 8 period he is in the employment of such employer; provided that he
 9 files notice thereof in writing with the Board of Trustees of the
 10 Retirement System within five years after separation from service as
 11 a public school teacher or State employee; such member shall be
 12 deemed to have met the requirements of the above provisions of this
 13 subdivision upon attainment of age 60 while in such employment
 14 provided that he is otherwise vested.

15 b. In lieu of the benefits provided in paragraph a of this subdivision (8),
 16 any member ~~who became a member prior to August 1, 2011, and~~
 17 who separates from service prior to the attainment of the age of 60
 18 years, for any reason other than death or retirement for disability as
 19 provided in G.S. 135-5(c), after completing 20 or more years of
 20 creditable service, and who leaves his total accumulated
 21 contributions in said System, may elect to retire on an early
 22 retirement allowance upon attaining the age of 50 years or at any
 23 time thereafter; provided that such member may so retire only upon
 24 electronic submission or written application to the Board of Trustees
 25 setting forth at what time, not less than one day nor more than 120
 26 days subsequent to the execution and filing thereof, he desires to be
 27 retired. Such early retirement allowance so elected shall be equal to
 28 the deferred retirement allowance otherwise payable at the attainment
 29 of the age of 60 years reduced by the percentage thereof indicated
 30 below.

Age at Retirement	Percentage Reduction
59	7
58	14
57	20
56	25
55	30
54	35
53	39
52	43
51	46
50	50

43 b1. In lieu of the benefits provided in paragraphs a and b of this
 44 subdivision, any member ~~who became a member prior to August 1,~~
 45 ~~2011, and~~ who is a law-enforcement officer at the time of separation
 46 from service prior to the attainment of the age of 50 years, for any
 47 reason other than death or disability as provided in this Article, after
 48 completing 15 or more years of creditable service in this capacity
 49 immediately prior to separation from service, and who leaves his
 50 total accumulated contributions in this System may elect to retire on
 51 a deferred early retirement allowance upon attaining the age of 50

1 years or at any time thereafter; provided, that the member may
2 commence retirement only upon electronic submission or written
3 application to the Board of Trustees setting forth at what time, as of
4 the first day of a calendar month, not less than one day nor more than
5 120 days subsequent to the execution and filing thereof, he desires to
6 commence retirement. The deferred early retirement allowance shall
7 be computed in accordance with the service retirement provisions of
8 this Article pertaining to law-enforcement officers.

9 b2. In lieu of the benefits provided in paragraphs a and b of this
10 subdivision, any member ~~who became a member prior to August 1,~~
11 ~~2011, and~~ who is a law-enforcement officer at the time of separation
12 from service prior to the attainment of the age of 55 years, for any
13 reason other than death or disability as provided in this Article, after
14 completing five or more years of creditable service in this capacity
15 immediately prior to separation from service, and who leaves his
16 total accumulated contributions in this System may elect to retire on
17 a deferred early retirement allowance upon attaining the age of 55
18 years or at any time thereafter; provided, that the member may
19 commence retirement only upon electronic submission or written
20 application to the Board of Trustees setting forth at what time, as of
21 the first day of a calendar month not less than one day nor more than
22 120 days subsequent to the execution and filing thereof, he desires to
23 commence retirement. The deferred early retirement allowance shall
24 be computed in accordance with the service retirement provisions of
25 this Article pertaining to law-enforcement officers.

26 b3. Vested deferred retirement allowance of members retiring on or after
27 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
28 of this subdivision, any member ~~who became a member prior to~~
29 ~~August 1, 2011, and~~ who separates from service prior to attainment
30 of age 60 years, after completing 20 or more years of creditable
31 service, and who leaves his total accumulated contributions in said
32 System, may elect to retire on a deferred retirement allowance upon
33 attaining the age of 50 years or any time thereafter; provided that
34 such member may so retire only upon electronic submission or
35 written application to the Board of Trustees setting forth at what
36 time, not less than one day nor more than 120 days subsequent to the
37 execution and filing thereof, he desires to be retired. Such deferred
38 retirement allowance shall be computed in accordance with the
39 service retirement provisions of this Article pertaining to a member
40 who is not a law enforcement officer or an eligible former law
41 enforcement officer.

42 b4. ~~Any member who became a member on or after August 1, 2011, and~~
43 ~~who is not a law enforcement officer and (i) separates from service~~
44 ~~prior to the attainment of the age of 60 years, after completing 25 or~~
45 ~~more years of creditable service, and who leaves the member's total~~
46 ~~accumulated contributions in said System, may elect to retire on an~~
47 ~~unreduced service retirement allowance upon attaining the age of 60~~
48 ~~years or at any time thereafter; or (ii) separates from service prior to~~
49 ~~the attainment of the age of 50 years, after completing 20 or more~~
50 ~~years of creditable service, and who leaves the member's total~~
51 ~~accumulated contributions in said System, may elect to retire on an~~

1 early reduced retirement allowance upon attaining the age of 50 years
 2 or at any time thereafter; or (iii) separates from service prior to the
 3 attainment of the age of 60 years, after completing 10 or more years
 4 but less than 25 years of creditable service, and who leaves the
 5 member's total accumulated contributions in said System, may elect
 6 to retire on an early reduced retirement allowance upon attaining the
 7 age of 60 years or at any time thereafter; or (iv) separates from
 8 service prior to the attainment of the age of 65 years, after
 9 completing 10 or more years of creditable service, and who leaves
 10 the member's total accumulated contributions in said System, may
 11 elect to retire on an unreduced retirement allowance upon attaining
 12 the age of 65 years or at any time thereafter; provided that such
 13 member may so retire only upon electronic submission or written
 14 application to the Board of Trustees setting forth at what time, not
 15 less than one day nor more than 120 days subsequent to the execution
 16 and filing thereof, the member desires to be retired.

17 b5. Any member who became a member on or after August 1, 2011, who
 18 is a law enforcement officer and (i) separates from service prior to
 19 attainment of age 50 years, after completing 15 or more years of
 20 creditable service in this capacity, and who leaves the member's total
 21 accumulated contributions in said System, may elect to retire on an
 22 early reduced retirement allowance upon attaining the age of 50 years
 23 or any time thereafter; or (ii) separates from service prior to
 24 attainment of age 55 years, after completing 10 or more years of
 25 creditable service in this capacity, and who leaves the member's total
 26 accumulated contributions in said System, may elect to retire on an
 27 unreduced retirement allowance upon attaining the age of 55 years or
 28 any time thereafter; provided that such member may so retire only
 29 upon electronic submission or written application to the Board of
 30 Trustees setting forth at what time, not less than one day nor more
 31 than 120 days subsequent to the execution and filing thereof, the
 32 member desires to be retired.

33"

34 **SECTION 3.(b)** G.S. 135-5(a) reads as rewritten:

35 "(a) Service Retirement Benefits.

36 (1) Any member who became a member prior to August 1, 2011, may retire
 37 upon electronic submission or written application to the Board of Trustees
 38 setting forth at what time, as of the first day of a calendar month, not less
 39 than one day nor more than 120 days subsequent to the execution of and
 40 filing thereof, he desires to be retired: Provided, that the said member at the
 41 time so specified for his retirement shall have attained the age of 60 years
 42 and have at least five years of membership service or shall have completed
 43 30 years of creditable service.

44 (1a) Any member who became a member on or after August 1, 2011, may retire
 45 upon electronic submission or written application to the Board of Trustees
 46 setting forth at what time, as of the first day of a calendar month, not less
 47 than one day nor more than 120 days subsequent to the execution of and
 48 filing thereof, the member desires to be retired: Provided, that the said
 49 member at the time so specified for the member's retirement shall have
 50 attained the age of 60 years and have at least 10 years of membership service
 51 or shall have completed 30 years of creditable service.

- 1 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 2 (3) Any member who was in service October 8, 1981, who had attained 60 years
- 3 of age, may retire upon electronic submission or written application to the
- 4 Board of Trustees setting forth at what time, as of the first day of a calendar
- 5 month, not less than one day nor more than 120 days subsequent to the
- 6 execution and filing thereof, he desires to be retired.
- 7 (4) Any member who is a law-enforcement officer, ~~who became a member prior~~
- 8 ~~to August 1, 2011, officer~~ and who attains age 50 and completes 15 or more
- 9 years of creditable service in this capacity or who attains age 55 and
- 10 completes five or more years of creditable service in this capacity, may retire
- 11 upon electronic submission or written application to the Board of Trustees
- 12 setting forth at what time, as of the first day of a calendar month, not less
- 13 than one day nor more than 120 days subsequent to the execution and filing
- 14 thereof, he desires to be retired; Provided, also, any member who has met the
- 15 conditions herein required but does not retire, and later becomes a teacher or
- 16 an employee other than as a law-enforcement officer shall continue to have
- 17 the right to commence retirement.
- 18 (4a) ~~Any member who is a law-enforcement officer, who became a member on or~~
- 19 ~~after August 1, 2011, and who attains age 50 and completes 15 or more years~~
- 20 ~~of creditable service in this capacity or who attains age 55 and completes 10~~
- 21 ~~or more years of creditable service in this capacity, may retire upon~~
- 22 ~~electronic submission or written application to the Board of Trustees setting~~
- 23 ~~forth at what time, as of the first day of a calendar month, not less than one~~
- 24 ~~day nor more than 120 days subsequent to the execution and filing thereof,~~
- 25 ~~the member desires to be retired; Provided, also, any member who has met~~
- 26 ~~the conditions herein required but does not retire, and later becomes a~~
- 27 ~~teacher or an employee other than as a law-enforcement officer shall~~
- 28 ~~continue to have the right to commence retirement.~~
- 29 (5) Any member who is eligible for and is being paid a benefit under the
- 30 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
- 31 deemed a member in service and may not retire under the provisions of this
- 32 section. Any member who has made electronic submission or written
- 33 application for long-term or extended short-term benefits under the
- 34 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
- 35 who has been rejected by the Plan's Medical Board for a long-term or
- 36 extended short-term benefit shall have 90 days from the date of notification
- 37 of the rejection to convert his application to an early or service retirement
- 38 application, provided that the member meets the eligibility requirements,
- 39 effective the first day of the month following the month in which short-term
- 40 disability benefits ended or the first day of the month following the month in
- 41 which any salary continuation as may be provided in G.S. 135-104 ended,
- 42 whichever is later."

43 **SECTION 3.(c)** G.S. 135-5(a2) is repealed.

44 **SECTION 3.(d)** G.S. 135-5(b19) reads as rewritten:

45 "(b19) Service Retirement Allowance of Members ~~Who Became a Member Prior to August~~

46 ~~1, 2011,~~ Retiring on or After July 1, 2002. – Upon retirement from service in accordance with

47 ~~subdivision (a)(1), (a)(4), or subsection (a) or (a1)~~ of this section, on or after July 1, 2002, a

48 member shall receive the following service retirement allowance:

49 "...."

50 **SECTION 3.(e)** G.S. 135-5(b20) is repealed.

51 **SECTION 3.(f)** G.S. 135-5(m) reads as rewritten:

1 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, ~~who became~~
2 ~~a member prior to August 1, 2011,~~ the beneficiary designated to receive a return of
3 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
4 retirement allowance provided by Option 2 of subsection (g) above computed by assuming that
5 the member had retired on the first day of the month following the date of his death, provided
6 that all four of the following conditions apply:

7 "...."

8 **SECTION 3.(g)** G.S. 135-5(m3) is repealed.

9 **SECTION 3.(h)** G.S. 135-57 reads as rewritten:

10 **"§ 135-57. Service retirement.**

11 (a) Any member on or after January 1, 1974, ~~who became a member prior to August 1,~~
12 ~~2011, and~~ who has attained his fiftieth birthday and five years of membership service may
13 retire upon electronic submission or written application to the board of trustees setting forth at
14 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
15 subsequent to the execution and filing thereof, he desires to be retired.

16 ~~(a1) Any member who became a member on or after August 1, 2011, and who has~~
17 ~~attained the member's fiftieth birthday and 10 years of membership service may retire upon~~
18 ~~electronic submission or written application to the Board of Trustees setting forth at what time,~~
19 ~~as of the first day of a calendar month, not less than one day nor more than 120 days~~
20 ~~subsequent to the execution and filing thereof, the member desires to be retired.~~

21 (b) Any member who is a justice or judge of the General Court of Justice shall be
22 automatically retired as of the first day of the calendar month coinciding with or next following
23 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,
24 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
25 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
26 office under the provisions of G.S. 7A-4.20.

27 (c) Any member who terminates service on or after January 1, 1974, having
28 accumulated five or more years of creditable service ~~and having become a member prior to~~
29 ~~August 1, 2011,~~ may retire under the provisions of subsection (a) above, provided that he shall
30 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
31 and the requirement of subsection (a) that the member be in service shall not apply.

32 ~~(c1) Any member having accumulated 10 or more years of creditable service and having~~
33 ~~become a member on or after August 1, 2011, may retire under the provisions of subsection~~
34 ~~(a1) above, provided that the member shall not have withdrawn the member's accumulated~~
35 ~~contributions prior to the effective date of the member's retirement, and the requirement of~~
36 ~~subsection (a1) that the member be in service shall not apply.~~

37 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
38 may retire upon electronic submission or written application to the board of trustees setting
39 forth at what time, as of the first day of a calendar month, not less than one day nor more than
40 120 days subsequent to the execution and filing thereof, he desires to be retired."

41 **SECTION 3.(i)** G.S. 135-106(b) reads as rewritten:

42 "(b) After the commencement of benefits under this section, the benefits payable under
43 the terms of this section during the first 36 months of the long-term disability period shall be
44 equal to sixty-five percent (65%) of 1/12th of the annual base rate of compensation last payable
45 to the participant or beneficiary prior to the beginning of the short-term disability period as may
46 be adjusted for percentage increases as provided under G.S. 135-108, plus sixty-five percent
47 (65%) of 1/12th of the annual longevity payment to which the participant or beneficiary would
48 be eligible, to a maximum of three thousand nine hundred dollars (\$3,900) per month reduced
49 by any primary Social Security disability benefits to which the beneficiary may be entitled,
50 effective as of the first of the month following the month of initial entitlement, and by monthly
51 payments for Workers' Compensation to which the participant or beneficiary may be entitled.

1 When primary Social Security disability benefits are increased by cost-of-living adjustments,
2 the increased reduction shall be applied in the first month following the month in which the
3 member becomes entitled to the increased Social Security benefit. The monthly benefit shall be
4 further reduced by the amount of any monthly payments from the federal Department of
5 Veterans Affairs, any other federal agency or any payments made under the provisions of
6 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
7 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
8 a month. However, a disabled participant may elect to receive any salary continuation as
9 provided in G.S. 135-104 in lieu of long-term disability benefits; provided such election shall
10 not extend the first 36 consecutive calendar months of the long-term disability period. An
11 election to receive any salary continuation for any part of any given day shall be in lieu of any
12 long-term benefit payable for that day, provided further, any lump-sum payout for vacation
13 leave shall be treated as if the beneficiary or participant had exhausted the leave and shall be in
14 lieu of any long-term benefit otherwise payable. Provided that, in any event, a beneficiary's
15 benefit shall be reduced during the first 36 months of the long-term disability period by an
16 amount, as determined by the Board of Trustees, equal to a primary Social Security retirement
17 benefit to which the beneficiary might be entitled.

18 After 36 months of long-term disability, no further benefits are payable under the terms of
19 this section unless the member has been approved and is in receipt of primary Social Security
20 disability benefits. In that case the benefits payable shall be equal to sixty-five percent (65%) of
21 1/12th of the annual base rate of compensation last payable to the participant or beneficiary
22 prior to the beginning of the short-term disability period as may be adjusted for percentage
23 increases as provided under G.S. 135-108, plus sixty-five percent (65%) of 1/12th of the annual
24 longevity payment to which the participant or beneficiary would be eligible, to a maximum of
25 three thousand nine hundred dollars (\$3,900) per month reduced by the primary Social Security
26 disability benefits to which the beneficiary may be entitled, effective as of the first of the month
27 following the month of initial entitlement, and by monthly payments for Workers'
28 Compensation to which the participant or beneficiary may be entitled. When primary Social
29 Security disability benefits are increased by cost-of-living adjustments, the increased reduction
30 shall be applied in the first month following the month in which the member becomes entitled
31 to the increased Social Security benefit. The monthly benefit shall be further reduced by the
32 amount of any monthly payments from the federal Department of Veterans Affairs, for
33 payments from any other federal agency, or for any payments made under the provisions of
34 G.S. 127A-108, to which the participant or beneficiary may be entitled on account of the same
35 disability. Provided, in any event, the benefit payable shall be no less than ten dollars (\$10.00)
36 a month.

37 Notwithstanding the foregoing, ~~but subject to an additional integration with the five-year~~
38 ~~and 10-year retirement vesting provisions as set forth in this paragraph,~~ the long-term disability
39 benefit is payable so long as the beneficiary is disabled and is in receipt of a primary Social
40 Security disability benefit until the earliest date at which the beneficiary ~~who became a member~~
41 ~~prior to August 1, 2011,~~ is eligible for an unreduced service retirement allowance from the
42 Retirement System, at which time the beneficiary would receive a retirement allowance
43 calculated on the basis of the beneficiary's average final compensation at the time of disability
44 as adjusted to reflect compensation increases subsequent to the time of disability and the
45 creditable service accumulated by the beneficiary, including creditable service while in receipt
46 of benefits under the Plan. ~~In the case of any long-term disability beneficiary who became a~~
47 ~~member on and after August 1, 2011, and ordinarily would not be eligible for a retirement~~
48 ~~benefit without 10 years of membership service, for purposes of this conversion from long-term~~
49 ~~disability to service retirement, and for that purpose only, noncontributory creditable service~~
50 ~~granted while in receipt of disability benefits under this Article shall be deemed to be~~
51 ~~membership service, through the completion of 10 years of combined membership and~~

1 ~~none~~contributory service on short term and long term disability benefits in total. In the event the
2 beneficiary has not been approved and is not in receipt of a primary Social Security disability
3 benefit, the long-term disability benefit shall cease after the first 36 months of the long-term
4 disability period. When such a long-term disability recipient begins receiving this unreduced
5 service retirement allowance from the System, that recipient shall not be subject to the
6 six-month waiting period set forth in G.S. 135-1(20). However, a beneficiary shall be entitled
7 to a restoration of the long-term disability benefit in the event the Social Security
8 Administration grants a retroactive approval for primary Social Security disability benefits with
9 a benefit effective date within the first 36 months of the long-term disability period. In such
10 event, the long-term disability benefit shall be restored retroactively to the date of cessation."

11 **SECTION 3.(j)** G.S. 143-166.41 reads as rewritten:

12 **"§ 143-166.41. Special separation allowance.**

13 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
14 as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,
15 agency, or institution ~~prior to August 1, 2011, and~~ who qualifies under this section shall
16 receive, beginning in the month in which he retires on a basic service retirement under the
17 provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths
18 percent (0.85%) of the annual equivalent of the base rate of compensation most recently
19 applicable to him for each year of creditable service. The allowance shall be paid in equal
20 installments on the payroll frequency used by the employer. To qualify for the allowance the
21 officer shall:

- 22 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
23 attained 55 years of age and completed five or more years of creditable
24 service; and
- 25 (2) Not have attained 62 years of age; and
- 26 (3) Have completed at least five years of continuous service as a law
27 enforcement officer as herein defined immediately preceding a service
28 retirement. Any break in the continuous service required by this subsection
29 because of disability retirement or disability salary continuation benefits
30 shall not adversely affect an officer's qualification to receive the allowance,
31 provided the officer returns to service within 45 days after the disability
32 benefits cease and is otherwise qualified to receive the allowance.

33 ~~(a1) Notwithstanding any other provision of law, every sworn law-enforcement officer~~
34 ~~as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department,~~
35 ~~agency, or institution on or after August 1, 2011, and who qualifies under this section shall~~
36 ~~receive, beginning in the month in which the member retires on a basic service retirement under~~
37 ~~the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths~~
38 ~~percent (0.85%) of the annual equivalent of the base rate of compensation most recently~~
39 ~~applicable to him for each year of creditable service. The allowance shall be paid in equal~~
40 ~~installments on the payroll frequency used by the employer. To qualify for the allowance, the~~
41 ~~officer shall:~~

- 42 ~~(1) Have (i) completed 30 or more years of creditable service or (ii) attained 55~~
43 ~~years of age and completed 10 or more years of creditable service; and~~
- 44 ~~(2) Not have attained 62 years of age; and~~
- 45 ~~(3) Have completed at least 10 years of continuous service as a law-enforcement~~
46 ~~officer as herein defined immediately preceding a service retirement. Any~~
47 ~~break in the continuous service required by this subsection because of~~
48 ~~disability retirement or disability salary continuation benefits shall not~~
49 ~~adversely affect an officer's qualification to receive the allowance, provided~~
50 ~~the officer returns to service within 45 days after the disability benefits cease~~
51 ~~and is otherwise qualified to receive the allowance.~~

1
2
3

...."

SECTION 4. Sections 1 and 2 of this act become effective January 1, 2015. The remainder of this act is effective when it becomes law.