

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 927
PROPOSED COMMITTEE SUBSTITUTE H927-PCS70239-LL-17

Short Title: State Pension Plan Solvency Reform Act.

(Public)

Sponsors:

Referred to:

May 5, 2011

A BILL TO BE ENTITLED

AN ACT TO MAKE CHANGES TO THE STATUTES GOVERNING THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM TO ENSURE THE FUTURE SOLVENCY OF THOSE SYSTEMS, TO AMEND THE PROVISIONS OF THE SPECIAL SEPARATION ALLOWANCE FOR LAW ENFORCEMENT OFFICERS FOR LAW ENFORCEMENT OFFICERS HIRED ON OR AFTER AUGUST 1, 2011, AND TO MAKE IT A CLASS 1 MISDEMEANOR TO FRAUDULENTLY RECEIVE THE RETIREMENT BENEFIT OF A DECEASED RETIREE AT LEAST TWO MONTHS AFTER THE RETIREE'S DEATH.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-3(8) reads as rewritten:

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

- a. Notwithstanding any other provision of this Chapter, any member who became a member prior to August 1, 2011, and 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. 135-5(c), after completing 15 or more years of creditable service, and who leaves his total accumulated contributions in said System shall have the right to retire on a deferred retirement allowance upon attaining the age of 60 years; provided that such member may retire only upon electronic submission or written application to the Board of Trustees setting forth at what time, not less than one day nor more than ~~90~~120 days subsequent to the execution and filing thereof, he desires to be retired; and further provided that in the case of a member who so separates from service on or after July 1, 1967, or whose account is active on July 1, 1967, or has not withdrawn his contributions, the aforesated requirement of 15 or more years of creditable service shall be reduced to 12 or more years of creditable service; and further provided that in the case of a member who so separates from service on or after July 1, 1971, or whose account is active on July 1, 1971, the aforesated



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1 requirement of 12 or more years of creditable service shall be
 2 reduced to five or more years of creditable service. Such deferred
 3 retirement allowance shall be computed in accordance with the
 4 service retirement provisions of this Article pertaining to a member
 5 who is not a law enforcement officer or an eligible former law
 6 enforcement officer. Notwithstanding the foregoing, any member
 7 whose services as a teacher or employee are terminated for any
 8 reason other than retirement, who becomes employed by a nonprofit,
 9 nonsectarian private school in North Carolina below the college level
 10 within one year after such teacher or employee has ceased to be a
 11 teacher or employee, may elect to leave his total accumulated
 12 contributions in the Teachers' and State Employees' Retirement
 13 System during the period he is in the employment of such employer;
 14 provided that he files notice thereof in writing with the Board of
 15 Trustees of the Retirement System within five years after separation
 16 from service as a public school teacher or State employee; such
 17 member shall be deemed to have met the requirements of the above
 18 provisions of this subdivision upon attainment of age 60 while in
 19 such employment provided that he is otherwise vested.

20 b. In lieu of the benefits provided in paragraph a of this subdivision (8),
 21 any member who became a member prior to August 1, 2011, and
 22 who separates from service prior to the attainment of the age of 60
 23 years, for any reason other than death or retirement for disability as
 24 provided in G.S. 135-5(c), after completing 20 or more years of
 25 creditable service, and who leaves his total accumulated
 26 contributions in said System, may elect to retire on an early
 27 retirement allowance upon attaining the age of 50 years or at any
 28 time thereafter; provided that such member may so retire only upon
 29 electronic submission or written application to the Board of Trustees
 30 setting forth at what time, not less than one day nor more than ~~90~~120
 31 days subsequent to the execution and filing thereof, he desires to be
 32 retired. Such early retirement allowance so elected shall be equal to
 33 the deferred retirement allowance otherwise payable at the attainment
 34 of the age of 60 years reduced by the percentage thereof indicated
 35 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

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48 b1. In lieu of the benefits provided in paragraphs a and b of this
 49 subdivision, any member who became a member prior to August 1,
 50 2011, and who is a law-enforcement officer at the time of separation
 51 from service prior to the attainment of the age of 50 years, for any

1 reason other than death or disability as provided in this Article, after
2 completing 15 or more years of creditable service in this capacity
3 immediately prior to separation from service, and who leaves his
4 total accumulated contributions in this System may elect to retire on
5 a deferred early retirement allowance upon attaining the age of 50
6 years or at any time thereafter; provided, that the member may
7 commence retirement only upon electronic submission or written
8 application to the Board of Trustees setting forth at what time, as of
9 the first day of a calendar month, not less than one day nor more than
10 ~~90~~120 days subsequent to the execution and filing thereof, he desires
11 to commence retirement. The deferred early retirement allowance
12 shall be computed in accordance with the service retirement
13 provisions of this Article pertaining to law-enforcement officers.

14 b2. In lieu of the benefits provided in paragraphs a and b of this
15 subdivision, any member who became a member prior to August 1,
16 2011, and who is a law-enforcement officer at the time of separation
17 from service prior to the attainment of the age of 55 years, for any
18 reason other than death or disability as provided in this Article, after
19 completing five or more years of creditable service in this capacity
20 immediately prior to separation from service, and who leaves his
21 total accumulated contributions in this System may elect to retire on
22 a deferred early retirement allowance upon attaining the age of 55
23 years or at any time thereafter; provided, that the member may
24 commence retirement only upon electronic submission or written
25 application to the Board of Trustees setting forth at what time, as of
26 the first day of a calendar month not less than one day nor more than
27 ~~90~~120 days subsequent to the execution and filing thereof, he desires
28 to commence retirement. The deferred early retirement allowance
29 shall be computed in accordance with the service retirement
30 provisions of this Article pertaining to law-enforcement officers.

31 b3. Vested deferred retirement allowance of members retiring on or after
32 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
33 of this subdivision, any member who became a member prior to
34 August 1, 2011, and who separates from service prior to attainment
35 of age 60 years, after completing 20 or more years of creditable
36 service, and who leaves his total accumulated contributions in said
37 System, may elect to retire on a deferred retirement allowance upon
38 attaining the age of 50 years or any time thereafter; provided that
39 such member may so retire only upon electronic submission or
40 written application to the Board of Trustees setting forth at what
41 time, not less than one day nor more than ~~90~~120 days subsequent to
42 the execution and filing thereof, he desires to be retired. Such
43 deferred retirement allowance shall be computed in accordance with
44 the service retirement provisions of this Article pertaining to a
45 member who is not a law enforcement officer or an eligible former
46 law enforcement officer.

47 b4. Any member who became a member on or after August 1, 2011, and
48 who is not a law enforcement officer and (i) separates from service
49 prior to the attainment of the age of 60 years, after completing 25 or
50 more years of creditable service, and who leaves the member's total
51 accumulated contributions in said System, may elect to retire on an

1 unreduced service retirement allowance upon attaining the age of 60
 2 years or at any time thereafter; or (ii) separates from service prior to
 3 the attainment of the age of 50 years, after completing 20 or more
 4 years of creditable service, and who leaves the member's total
 5 accumulated contributions in said System, may elect to retire on an
 6 early reduced retirement allowance upon attaining the age of 50 years
 7 or at any time thereafter; or (iii) separates from service prior to the
 8 attainment of the age of 60 years, after completing 10 or more years
 9 but less than 25 years of creditable service, and who leaves the
 10 member's total accumulated contributions in said System, may elect
 11 to retire on an early reduced retirement allowance upon attaining the
 12 age of 60 years or at any time thereafter; or (iv) separates from
 13 service prior to the attainment of the age of 65 years, after
 14 completing 10 or more years of creditable service, and who leaves
 15 the member's total accumulated contributions in said System, may
 16 elect to retire on an unreduced retirement allowance upon attaining
 17 the age of 65 years or at any time thereafter; provided that such
 18 member may so retire only upon electronic submission or written
 19 application to the Board of Trustees setting forth at what time, not
 20 less than one day nor more than 120 days subsequent to the execution
 21 and filing thereof, the member desires to be retired.

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

38"

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

40 "(a) Service Retirement Benefits.

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

49 (1a) Any member who became a member on or after August 1, 2011, may retire
 50 upon electronic submission or written application to the Board of Trustees
 51 setting forth at what time, as of the first day of a calendar month, not less

1 than one day nor more than 120 days subsequent to the execution of and
2 filing thereof, the member desires to be retired: Provided, that the said
3 member at the time so specified for the member's retirement shall have
4 attained the age of 60 years and have at least 10 years of membership service
5 or shall have completed 30 years of creditable service.

6 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.

7 (3) Any member who was in service October 8, 1981, who had attained 60 years
8 of age, may retire upon electronic submission or written application to the
9 Board of Trustees setting forth at what time, as of the first day of a calendar
10 month, not less than one day nor more than 120 days subsequent to the
11 execution and filing thereof, he desires to be retired.

12 (4) Any member who is a law-enforcement officer, who became a member prior
13 to August 1, 2011, and who attains age 50 and completes 15 or more years
14 of creditable service in this capacity or who attains age 55 and completes
15 five or more years of creditable service in this capacity, may retire upon
16 electronic submission or written application to the Board of Trustees setting
17 forth at what time, as of the first day of a calendar month, not less than one
18 day nor more than 120 days subsequent to the execution and filing thereof,
19 he desires to be retired; Provided, also, any member who has met the
20 conditions herein required but does not retire, and later becomes a teacher or
21 an employee other than as a law-enforcement officer shall continue to have
22 the right to commence retirement.

23 (4a) Any member who is a law-enforcement officer, who became a member on or
24 after August 1, 2011, and who attains age 50 and completes 15 or more years
25 of creditable service in this capacity or who attains age 55 and completes 10
26 or more years of creditable service in this capacity, may retire upon
27 electronic submission or written application to the Board of Trustees setting
28 forth at what time, as of the first day of a calendar month, not less than one
29 day nor more than 120 days subsequent to the execution and filing thereof,
30 the member desires to be retired; Provided, also, any member who has met
31 the conditions herein required but does not retire, and later becomes a
32 teacher or an employee other than as a law-enforcement officer shall
33 continue to have the right to commence retirement.

34 (5) Any member who is eligible for and is being paid a benefit under the
35 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
36 deemed a member in service and may not retire under the provisions of this
37 section. Any member who has made electronic submission or written
38 application for long-term or extended short-term benefits under the
39 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
40 who has been rejected by the Plan's Medical Board for a long-term or
41 extended short-term benefit shall have 90 days from the date of notification
42 of the rejection to convert his application to an early or service retirement
43 application, provided that the member meets the eligibility requirements,
44 effective the first day of the month following the month in which short-term
45 disability benefits ended or the first day of the month following the month in
46 which any salary continuation as may be provided in G.S. 135-104 ended,
47 whichever is later."

48 **SECTION 3.** G.S. 135-5 is amended by adding a new subsection to read:

49 "(a2) Early Service Retirement Benefits. – Any member who became a member on or
50 after August 1, 2011, who is a law enforcement officer may retire and receive a reduced
51 retirement allowance upon electronic submission or written application to the Board of Trustees

1 setting forth at what time, as of the first day of a calendar month, not less than one day nor
2 more than 120 days subsequent to the execution of and filing thereof, the member desires to be
3 retired; however, the member at the time so specified for the member's retirement shall have
4 attained the age of 50 years and have at least 15 years of creditable service."

5 **SECTION 4.** G.S. 135-5(b19) reads as rewritten:

6 "(b19) Service Retirement Allowance of Members Who Became a Member Prior to
7 August 1, 2011, Retiring on or After July 1, 2002. – Upon retirement from service in
8 accordance with subdivision (a)(1), (a)(4), or subsection (a) or (a1) above, of this section, on or
9 after July 1, 2002, a member shall receive the following service retirement allowance:

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

13 a. If the member's service retirement date occurs on or after his 55th
14 birthday, and completion of five years of creditable service as a law
15 enforcement officer, or after the completion of 30 years of creditable
16 service, the allowance shall be equal to one and eighty-two
17 hundredths percent (1.82%) of his average final compensation,
18 multiplied by the number of years of his creditable service.

19 b. If the member's service retirement date occurs on or after his 50th
20 birthday and before his 55th birthday with 15 or more years of
21 creditable service as a law enforcement officer and prior to the
22 completion of 30 years of creditable service, his retirement allowance
23 shall be equal to the greater of:

24 1. The service retirement allowance payable under
25 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
26 of 1%) thereof for each month by which his retirement date
27 precedes the first day of the month coincident with or next
28 following the month the member would have attained his
29 55th birthday; or

30 2. The service retirement allowance as computed under
31 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
32 difference between 30 years and his creditable service at
33 retirement.

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

37 a. If the member's service retirement date occurs on or after his 65th
38 birthday upon the completion of five years of membership service or
39 after the completion of 30 years of creditable service or on or after
40 his 60th birthday upon the completion of 25 years of creditable
41 service, the allowance shall be equal to one and eighty-two
42 hundredths percent (1.82%) of his average final compensation,
43 multiplied by the number of years of creditable service.

44 b. If the member's service retirement date occurs after his 60th birthday
45 and before his 65th birthday and prior to his completion of 25 years
46 or more of creditable service, his retirement allowance shall be
47 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
48 one-quarter of one percent (¼ of 1%) thereof for each month by
49 which his retirement date precedes the first day of the month
50 coincident with or next following his 65th birthday.

- 1 c. If the member's early service retirement date occurs on or after his
2 50th birthday and before his 60th birthday and after completion of 20
3 years of creditable service but prior to the completion of 30 years of
4 creditable service, his early service retirement allowance shall be
5 equal to the greater of:
- 6 1. The service retirement allowance as computed under
7 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
8 of one percent ($5/12$ of 1%) thereof for each month by which
9 his retirement date precedes the first day of the month
10 coincident with or next following the month the member
11 would have attained his 60th birthday, plus one-quarter of one
12 percent ($1/4$ of 1%) thereof for each month by which his 60th
13 birthday precedes the first day of the month coincident with
14 or next following his 65th birthday; or
 - 15 2. The service retirement allowance as computed under
16 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
17 difference between 30 years and his creditable service at
18 retirement; or
 - 19 3. If the member's creditable service commenced prior to July 1,
20 1994, the service retirement allowance equal to the actuarial
21 equivalent of the allowance payable at the age of 60 years as
22 computed in G.S. 135-5(b19)(2)b.
- 23 d. Notwithstanding the foregoing provisions, any member whose
24 creditable service commenced prior to July 1, 1963, shall not receive
25 less than the benefit provided by G.S. 135-5(b)."

26 **SECTION 5.** G.S. 135-5 is amended by adding a new subsection to read:

27 "(b20) Service Retirement Allowance of Members Who Became a Member On or After
28 August 1, 2011. – Upon retirement from service in accordance with subdivision (a)(1a) or
29 (a)(4a) or subsection (a1) or (a2) of this section, a member shall receive the following service
30 retirement allowance:

- 31 (1) A member who is a law enforcement officer or an eligible former law
32 enforcement officer shall receive a service retirement allowance computed
33 as follows:
- 34 a. If the member's service retirement date occurs on or after the
35 member's 55th birthday, and completion of 10 years of creditable
36 service as a law enforcement officer, or after the completion of 30
37 years of creditable service, the allowance shall be equal to one and
38 eighty-two hundredths percent (1.82%) of the member's average final
39 compensation, multiplied by the number of years of his creditable
40 service.
 - 41 b. If the member's service retirement date occurs on or after the
42 member's 50th birthday and before the member's 55th birthday with
43 15 or more years of creditable service as a law enforcement officer
44 and prior to the completion of 30 years of creditable service, the
45 member's retirement allowance shall be equal to the greater of:
 - 46 1. The service retirement allowance payable under
47 G.S. 135-5(b20)(1)a. reduced by one-third of one percent ($1/3$
48 of 1%) thereof for each month by which the member's
49 retirement date precedes the first day of the month coincident
50 with or next following the month the member would have
51 attained the member's 55th birthday; or

1 2. The service retirement allowance as computed under
2 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times the
3 difference between 30 years and the member's creditable
4 service at retirement.

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

8 a. If the member's service retirement date occurs on or after his 65th
9 birthday upon the completion of 10 years of membership service or
10 after the completion of 30 years of creditable service or on or after
11 the member's 60th birthday upon the completion of 25 years of
12 creditable service, the allowance shall be equal to one and eighty-two
13 hundredths percent (1.82%) of the member's average final
14 compensation, multiplied by the number of years of creditable
15 service.

16 b. If the member's service retirement date occurs after the member's
17 60th birthday and before the member's 65th birthday and prior to the
18 member's completion of 25 years or more of creditable service, the
19 member's retirement allowance shall be computed as in
20 G.S. 135-5(b20)(2)a. but shall be reduced by one-fourth of one
21 percent (1/4 of 1%) thereof for each month by which the member's
22 retirement date precedes the first day of the month coincident with or
23 next following the member's 65th birthday.

24 c. If the member's early service retirement date occurs on or after the
25 member's 50th birthday and before the member's 60th birthday and
26 after completion of 20 years of creditable service but prior to the
27 completion of 30 years of creditable service, the member's early
28 service retirement allowance shall be equal to the greater of:

29 1. The service retirement allowance as computed under
30 G.S. 135-5(b20)(2)a. but reduced by the sum of five-twelfths
31 of one percent (5/12 of 1%) thereof for each month by which
32 the member's retirement date precedes the first day of the
33 month coincident with or next following the month the
34 member would have attained his 60th birthday, plus
35 one-fourth of one percent (1/4 of 1%) thereof for each month
36 by which his 60th birthday precedes the first day of the month
37 coincident with or next following the member's 65th birthday;
38 or

39 2. The service retirement allowance as computed under
40 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times the
41 difference between 30 years and the member's creditable
42 service at retirement."

43 **SECTION 6.** G.S. 135-5(m) reads as rewritten:

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

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

20 For the purpose of this benefit, a member is considered to be in service at
21 the date of his death if his death occurs within 180 days from the last day of
22 his actual service. The last day of actual service shall be determined as
23 provided in subsection (1) of this section. Upon the death of a member in
24 service, the surviving spouse may make all purchases for creditable service
25 as provided for under this Chapter for which the member had made
26 application in writing prior to the date of death, provided that the date of
27 death occurred prior to or within 60 days after notification of the cost to
28 make the purchase. The term "in service" as used in this subsection includes
29 a member in receipt of a benefit under the Disability Income Plan as
30 provided in Article 6 of this Chapter.

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

38 For the purpose of calculating this benefit any terminal payouts made
39 after the date of death that meet the definition of compensation shall be
40 credited to the month prior to the month of death. These terminal payouts do
41 not include salary or wages paid for work performed during the month of
42 death."

43 **SECTION 7.** G.S. 135-5 is amended by adding a new subsection to read:

44 "(m3) Survivor's Alternate Benefit. – Upon the death of a member in service who became
45 a member on or after August 1, 2011, the principal beneficiary designated to receive a return of
46 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
47 retirement allowance provided by Option 2 of subsection (g) of this section computed by
48 assuming that the member had retired on the first day of the month following the date of the
49 member's death, provided that the following conditions apply:

- 1 (1) a. The member had attained such age and/or creditable service to be
2 eligible to commence retirement with an early or service retirement
3 allowance.
4 b. The member had obtained 20 years of creditable service in which
5 case the retirement allowance shall be computed in accordance with
6 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding the
7 requirement of obtaining age 50.
8 b1. The member was a law enforcement officer who had attained 15
9 years of service as a law enforcement officer and was killed in the
10 line of duty, in which case the retirement allowance shall be
11 computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding
12 the requirement of attaining age 50.
13 c. The member had not commenced to receive a retirement allowance
14 as provided under this Chapter.
15 (2) At the time of the member's death, one and only one person is eligible to
16 receive a return of the member's contributions.
17 (3) The member had not instructed the Board of Trustees in writing that the
18 member did not wish the provisions of this subsection to apply.

19 For the purpose of this benefit, a member is considered to be in service at
20 the date of the member's death if the member's death occurs within 180 days
21 from the last day of the member's actual service. The last day of actual
22 service shall be determined as provided in subdivision (1) of this subsection.
23 Upon the death of a member in service, the surviving spouse may make all
24 purchases for creditable service as provided for under this Chapter for which
25 the member had made application in writing prior to the date of death,
26 provided that the date of death occurred prior to or within 60 days after
27 notification of the cost to make the purchase. The term, "in service" as used
28 in this subsection, includes a member in receipt of a benefit under the
29 Disability Income Plan as provided in Article 6 of this Chapter.

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

37 For the purpose of calculating this benefit, any terminal payouts made
38 after the date of death that meet the definition of compensation shall be
39 credited to the month prior to the month of death. These terminal payouts do
40 not include salary or wages paid for work performed during the month of
41 death."

42 **SECTION 8.** G.S. 135-57 reads as rewritten:

43 **"§ 135-57. Service retirement.**

44 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
45 2011, and who has attained his fiftieth birthday and five years of membership service may
46 retire upon electronic submission or written application to the board of trustees setting forth at
47 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
48 subsequent to the execution and filing thereof, he desires to be retired.

49 (a1) Any member who became a member on or after August 1, 2011, and who has
50 attained the member's fiftieth birthday and 10 years of membership service may retire upon
51 electronic submission or written application to the Board of Trustees setting forth at what time,

1 as of the first day of a calendar month, not less than one day nor more than 120 days
2 subsequent to the execution and filing thereof, the member desires to be retired.

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

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

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

19 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
20 may retire upon electronic submission or written application to the board of trustees setting
21 forth at what time, as of 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 be retired."

23 **SECTION 9.** G.S. 143-166.41 reads as rewritten:

24 **"§ 143-166.41. Special separation allowance.**

25 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
26 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
27 agency, or institution prior to August 1, 2011, and who qualifies under this section shall
28 receive, beginning in the month in which he retires on a basic service retirement under the
29 provisions of ~~G.S. 135-5(a) or G.S. 143-166(y)~~, G.S. 135-5(a), an annual separation allowance
30 equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
31 compensation most recently applicable to him for each year of creditable service. The
32 allowance shall be paid in equal installments on the payroll frequency used by the employer. To
33 qualify for the allowance the officer shall:

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

45 (a1) Notwithstanding any other provision of law, every sworn law-enforcement officer
46 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
47 agency, or institution on or after August 1, 2011, and who qualifies under this section shall
48 receive, beginning in the month in which the member retires on a basic service retirement under
49 the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths
50 percent (0.85%) of the annual equivalent of the base rate of compensation most recently
51 applicable to him for each year of creditable service. The allowance shall be paid in equal

1 installments on the payroll frequency used by the employer. To qualify for the allowance, the
2 officer shall:

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

13 (b) As used in this section, "creditable service" means the service for which credit is
14 allowed under the retirement system of which the officer is a member, provided that at least
15 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

16 (c) Payment to a retired officer under the provisions of this section shall cease at the
17 first of:

- 18 (1) The death of the officer;
19 (2) The last day of the month in which the officer attains 62 years of age; or
20 (3) The first day of reemployment by any State department, agency, or
21 institution, except that this subdivision does not apply to an officer returning
22 to State employment in a position exempt from the State Personnel Act in an
23 agency other than the agency from which that officer retired.

24 (d) This section does not affect the benefits to which an individual may be entitled from
25 State, federal, or private retirement systems. The benefits payable under this section shall not
26 be subject to any increases in salary or retirement allowances that may be authorized by the
27 General Assembly for employees of the State or retired employees of the State.

28 (e) The head of each State department, agency, or institution shall determine the
29 eligibility of employees for the benefits provided herein.

30 (f) The Director of the Budget may authorize from time to time the transfer of funds
31 within the budgets of each State department, agency, or institution necessary to carry out the
32 purposes of this Article. These funds shall be taken from those appropriated to the department,
33 agency, or institution for salaries and related fringe benefits.

34 (g) The head of each State department, agency, or institution shall make the payments
35 set forth in subsection (a) to those persons certified under subsection (e) from funds available
36 under subsection (f)."

37 **SECTION 10.(a)** Article 1 of Chapter 135 of the General Statutes is amended by
38 adding a new section to read:

39 **"§ 135-18.11. Improper receipt of decedent's retirement allowance.**

40 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
41 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
42 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
43 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
44 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

45 **SECTION 10.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
46 adding a new section to read:

47 **"§ 128-38.5. Improper receipt of decedent's retirement allowance.**

48 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
49 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
50 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's

1 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
2 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

3 **SECTION 10.(c)** Article 4 of Chapter 135 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 135-75.2. Improper receipt of decedent's retirement allowance.**

6 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
7 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
8 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
9 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
10 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

11 **SECTION 10.(d)** Article 1A of Chapter 120 of the General Statutes is amended by
12 adding a new section to read:

13 **"§ 120-4.34. Improper receipt of decedent's retirement allowance.**

14 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
15 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
16 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
17 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
18 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

19 **SECTION 11.** Section 10 of this act becomes effective December 1, 2011, and
20 applies to acts committed on or after that date. The remainder of this act becomes effective
21 August 1, 2011.