

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 538*
PROPOSED SENATE COMMITTEE SUBSTITUTE H538-PCS90128-SH-30

Short Title: LGERS LEO Disability/Add Sheriffs' Assn.

(Public)

Sponsors:

Referred to:

March 31, 2011

A BILL TO BE ENTITLED

AN ACT TO AMEND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO REMOVE THE REQUIREMENT THAT LAW ENFORCEMENT OFFICERS HAVE ONE YEAR OF CREDITABLE SERVICE IN ORDER TO QUALIFY FOR DISABILITY RETIREMENT BENEFITS FOR INJURIES INCURRED IN THE LINE OF DUTY AND TO INCLUDE THE NORTH CAROLINA SHERIFFS' ASSOCIATION AS AN EMPLOYER.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27(c) reads as rewritten:

"(c) Disability Retirement Benefits. – Upon the application of a member or of his employer, any member who has had five or more years of creditable service may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 120 days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided further, that the Medical Board shall not certify any member as disabled who:

- (1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or
- (2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement officer and becomes incapacitated for duty as the natural and proximate result of injuries incurred while in the actual performance of his or her duties,



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1 and meets all other requirements for disability retirement benefits, may be retired by the Board
2 of Trustees on a disability retirement allowance.

3 Notwithstanding the requirement of five or more years of creditable service to the contrary,
4 a member who is a ~~law enforcement officer~~ or a fireman as defined in G.S. 58-86-25 or rescue
5 squad worker as defined in G.S. 58-86-30 and who has had one year or more of creditable
6 service and becomes incapacitated for duty as the natural and proximate result of an accident
7 occurring while in the actual performance of duty, and meets all other requirements for
8 disability retirement benefits, may be retired by the Board of Trustees on a disability retirement
9 allowance.

10 Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement
11 with an early or service retirement benefit has the right, within three years of his retirement, to
12 convert to an allowance with disability retirement benefits without modification of any election
13 of optional allowance previously made; provided, the beneficiary would have met all applicable
14 requirements for disability retirement benefits while still in service as a member. The allowance
15 on account of disability retirement benefits to the beneficiary shall be retroactive to the
16 effective date of early or service retirement.

17 Notwithstanding the foregoing, effective April 1, 1991, the surviving designated
18 beneficiary of a deceased member who met all other requirements for disability retirement
19 benefits, except whose death occurred before the first day of the calendar month in which the
20 member's disability retirement allowance was to be due and payable, may elect to receive the
21 reduced retirement allowance provided by a one hundred percent (100%) joint and survivor
22 payment option in lieu of a return of accumulated contributions, provided the following
23 conditions apply:

- 24 (1) The member had designated as the principal beneficiary, to receive a return
25 of accumulated contributions at the time of his death, one and only one
26 person, and
- 27 (2) The member had not instructed the Board of Trustees in writing that he did
28 not wish the provision of this subsection to apply."

29 **SECTION 2.(a)** The North Carolina Sheriffs' Association is an instrumentality of
30 the State because it is controlled by the constitutionally elected Sheriffs of the State; acts on a
31 collective basis to support the Sheriffs in their constitutionally mandated duties; provides
32 coordination between State government officials and agencies; serves as a central information
33 clearinghouse for sheriffs' offices; provides input on minimum standards for the operation of
34 local confinement facilities; and is required by statute to appoint members to boards and
35 commissions including the North Carolina Sheriffs' Education and Training Standards
36 Commission.

37 **SECTION 2.(b)** G.S. 128-21 reads as rewritten:

38 **"§ 128-21. Definitions.**

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

- 41 ...
- 42 (11) "Employer" shall mean any county, incorporated city or town, the board of
43 alcoholic control of any county or incorporated city or town, the North
44 Carolina League of Municipalities, ~~and~~ the State Association of County
45 ~~Commissioners.~~ Commissioners, and the North Carolina Sheriffs'
46 Association. "Employer" shall also mean any separate, juristic political
47 subdivision of the State as may be approved by the Board of Trustees upon
48 the advice of the Attorney General.

49"

50 **SECTION 3.** This act becomes effective July 1, 2011.