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SENATE DRS35169-LL-99 (03/11)

Short Title: Career Fire and Rescue Retirement.

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO DEFINE CAREER FIREFIGHTER AND CAREER RESCUE SQUAD
3 WORKER ACCRUAL RATES FOR MEMBERS AND BENEFICIARIES OF THE
4 LOCAL GOVERNMENTAL RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 128-21 is amended by adding two new subdivisions to read:

7 "(7b) "Career firefighter" means a person (i) who is a full-time paid employee of
8 an employer that participates in the Local Governmental Employees'
9 Retirement System and maintains a fire department certified by the North
10 Carolina Department of Insurance and (ii) who is actively serving in a
11 position with assigned primary duties and responsibilities for the prevention,
12 detection, and suppression of fire.

13 (7c) "Career rescue squad worker" means a person (i) who is a full-time paid
14 employee of an employer that participates in the Local Governmental
15 Employees' Retirement System and maintains a rescue squad or emergency
16 medical services team certified by the North Carolina Department of
17 Insurance or the Department of Health and Human Services and (ii) who is
18 actively serving in a position with assigned primary duties and
19 responsibilities for the alleviation of human suffering and assistance to
20 persons who are in difficulty, who are injured, or who become suddenly ill
21 by providing proper and efficient care or emergency medical services."

22 **SECTION 2.** G.S. 128-24(5) reads as rewritten:

23 "(5) The provisions of this subdivision (5) shall apply to any member whose
24 membership is terminated on or after July 1, 1965, and who becomes entitled
25 to benefits hereunder in accordance with the provisions hereof.

- 26 a. Notwithstanding any other provision of this Chapter, any member
27 who separates from service prior to the attainment of the age of 60
28 years for any reason other than death or retirement for disability as
29 provided in G.S. 128-27(c), after completing 15 or more years of
30 creditable service, and who leaves his total accumulated
31 contributions in said System shall have the right to retire on a
32 deferred retirement allowance upon attaining the age of 60 years;
33 provided that such member may retire only upon electronic
34 submission or written application to the Board of Trustees setting
35 forth at what time, not less than one day nor more than 120 days
36 subsequent to the execution and filing thereof, he desires to be



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1 retired; and further provided that in the case of a member who so
 2 separates from service on or after July 1, 1967, the aforesaid
 3 requirement of 15 or more years of creditable service shall be
 4 reduced to 12 or more years of creditable service; and further
 5 provided that in the case of a member who so separates from service
 6 on or after July 1, 1971, or whose account is active on July 1, 1971,
 7 the aforesaid requirement of 12 or more years of creditable service
 8 shall be reduced to five or more years of creditable service. Such
 9 deferred retirement allowance shall be computed in accordance with
 10 the service retirement provisions of this Article pertaining to a
 11 member who is not a law enforcement officer or eligible former law
 12 enforcement officer.

13 b. In lieu of the benefits provided in paragraph a of this subdivision,
 14 any member who separates from service prior to the attainment of the
 15 age of 60 years, for any reason other than death or retirement for
 16 disability as provided in G.S. 128-27(c), after completing 20 or more
 17 years of creditable service, and who leaves his total accumulated
 18 contributions in said System may elect to retire on an early
 19 retirement allowance upon attaining the age of 50 years or at any
 20 time thereafter; provided that such member may so retire only upon
 21 electronic submission or written application to the Board of Trustees
 22 setting forth at what time, not less than one day nor more than 120
 23 days subsequent to the execution and filing thereof, he desires to be
 24 retired. Such early retirement allowance so elected shall be equal to
 25 the deferred retirement allowance otherwise payable at the attainment
 26 of the age of 60 years reduced by the percentage thereof indicated
 27 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

38 b1. In lieu of the benefits provided in paragraphs a and b of this
 39 subdivision, any member who is a law enforcement ~~officer-officer,~~
 40 career firefighter, or career rescue squad worker at the time of
 41 separation from service prior to the attainment of the age of 50 years,
 42 for any reason other than death or disability as provided in this
 43 Article, after completing 15 or more years of creditable service in
 44 this capacity immediately prior to separation from service, and who
 45 leaves his total accumulated contributions in this System, may elect
 46 to retire on a deferred early retirement allowance upon attaining the
 47 age of 50 years or at any time thereafter; provided, that the member
 48 may commence retirement only upon electronic submission or
 49 written application to the Board of Trustees setting forth at what
 50
 51

1 time, as of the first day of a calendar month, not less than one day
2 nor more than 120 days subsequent to the execution and filing
3 thereof, he desires to commence retirement. The deferred early
4 retirement allowance shall be computed in accordance with the
5 service retirement provisions of this Article pertaining to law
6 enforcement ~~officers-officers, career firefighters, or career rescue~~
7 squad workers.

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

26 b3. Deferred retirement allowance of members retiring on or after July 1,
27 1995. – In lieu of the benefits provided in paragraphs a. and b. of this
28 subdivision, any member who separates from service prior to
29 attainment of age 60 years, after completing 20 or more years of
30 creditable service, and who leaves his total accumulated
31 contributions in said System, may elect to retire on a deferred
32 retirement allowance upon attaining the age of 50 years or any time
33 thereafter; provided that such member may so retire only upon
34 electronic submission or written application to the Board of Trustees
35 setting forth at what time, not less than one day nor more than 120
36 days subsequent to the execution and filing thereof, he desires to be
37 retired. Such deferred retirement allowance shall be computed in
38 accordance with the service retirement provisions of this Article
39 pertaining to a member who is not a law enforcement officer or an
40 eligible former law enforcement officer.

41 c. Should a beneficiary who retired on an early or service retirement
42 allowance be reemployed by, or otherwise engaged to perform
43 services for, an employer participating in the Retirement System on a
44 part-time, temporary, interim, or on fee-for-service basis, whether
45 contractual or otherwise, and if such beneficiary earns an amount
46 during the 12-month period immediately following the effective date
47 of retirement or in any calendar year which exceeds fifty percent
48 (50%) of the reported compensation, excluding terminal payments,
49 during the 12 months of service preceding the effective date of
50 retirement, or twenty thousand dollars (\$20,000), whichever is
51 greater, as hereinafter indexed, then the retirement allowance shall be

1 suspended as of the first day of the month following the month in
2 which the reemployment earnings exceed the amount above, for the
3 balance of the calendar year, except when the reemployment earnings
4 exceed the amount above in the month of December, in which case
5 the retirement allowance shall not be suspended. The retirement
6 allowance of the beneficiary shall be reinstated as of January 1 of
7 each year following suspension. The amount that may be earned
8 before suspension shall be increased on January 1 of each year by the
9 ratio of the Consumer Price Index to the Index one year earlier,
10 calculated to the nearest tenth of a percent (1/10 of 1%).

11 c1. Within 90 days of the end of each month in which a beneficiary is
12 reemployed under the provisions of sub-subdivision c. of this
13 subdivision, each employer shall provide a report for that month on
14 each reemployed beneficiary, including the terms of the
15 reemployment, the date of the reemployment, and the amount of the
16 monthly compensation. If such a report is not received within the
17 required 90 days, the Board shall assess the employer with a penalty
18 of ten percent (10%) of the compensation of the unreported
19 reemployed beneficiaries during the months for which the employer
20 did not report the reemployed beneficiaries, with a minimum penalty
21 of twenty-five dollars (\$25.00). If after being assessed a penalty, an
22 employer provides clear and convincing evidence that the failure to
23 report resulted from a lack of oversight or some other event beyond
24 the employer's control and was not a deliberate attempt to omit the
25 reporting of reemployed beneficiaries, the Board may reduce the
26 penalty to not less than two percent (2%) of the compensation of the
27 unreported reemployed beneficiaries during the months for which the
28 employer failed to report, with a minimum penalty of twenty-five
29 dollars (\$25.00). Upon receipt by the employer of notice that a
30 penalty has been assessed under this sub-subdivision, the employer
31 shall remit the payment of the penalty to the Retirement System, in
32 one lump sum, no later than 90 days from the date of the notice.

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

40 Upon his subsequent retirement, he shall be paid a retirement
41 allowance determined as follows:

42 1. For a member who earns at least three years' membership
43 service after restoration to service, the retirement allowance
44 shall be computed on the basis of his compensation and
45 service before and after the period of prior retirement without
46 restriction; provided, that if the prior allowance was based on
47 a social security leveling payment option, the allowance shall
48 be adjusted actuarially for the difference between the amount
49 received under the optional payment and what would have
50 been paid if the retirement allowance had been paid without
51 optional modification. In the alternative, the member may

1 receive a refund of the member's accumulated contributions
 2 for the period of service after restoration to service in
 3 accordance with G.S. 128-27(f).
 4 2. For a member who does not earn three years' membership
 5 service after restoration to service, the retirement allowance
 6 shall be equal to the sum of the retirement allowance to which
 7 he would have been entitled had he not been restored to
 8 service, without modification of the election of an optional
 9 allowance previously made, and the retirement allowance that
 10 results from service earned since being restored to service;
 11 provided, that if the prior retirement allowance was based on
 12 a social security leveling payment option, the prior allowance
 13 shall be adjusted actuarially for the difference between the
 14 amount that would have been paid for each month had the
 15 payment not been suspended and what would have been paid
 16 if the retirement allowance had been paid without optional
 17 modification. In the alternative, the member may receive a
 18 refund of the member's accumulated contributions for the
 19 period of service after restoration to service in accordance
 20 with G.S. 128-27(f), or the member may allow this new
 21 account to remain inactive.

22 (5a) Notwithstanding the provisions of paragraphs c and d of the subdivision (5)
 23 to the contrary, a beneficiary who was a beneficiary retired on an early or
 24 service retirement with the Law Enforcement Officers' Retirement System at
 25 the time of the transfer of law enforcement officers employed by a
 26 participating employer and beneficiaries last employed by a participating
 27 employer to this Retirement System on January 1, 1986, and who also was a
 28 contributing member of this Retirement System on January 1, 1986, shall
 29 continue to be paid his retirement allowance without restriction and may
 30 continue as a member of this Retirement System with all the rights and
 31 privileges appendant to membership. Any beneficiary who retired on an
 32 early or service retirement allowance as an employee of any participating
 33 employer under the Law Enforcement Officers' Retirement System and
 34 becomes employed as an employee by an employer participating in the
 35 Retirement System after January 1, 1986, becomes subject to the provisions
 36 of G.S. 128-24(5)c. and G.S. 128-24(5)d. on and after January 1, 1989.

37 (6) Employees of a sending agency participating in an intergovernmental
 38 exchange of personnel under the provisions of Article 10 of Chapter 126
 39 shall remain members entitled to all benefits of the System provided that the
 40 requirements of Article 10 of Chapter 126 are met; provided further, that a
 41 member may retain membership status while serving as an assigned
 42 employee or employee on leave under the provisions of Article 10 of
 43 Chapter 126 for purposes of receiving the death benefit regardless of
 44 whether he and his employer are contributing to his account during the
 45 exchange period except that no duplicate benefits shall be paid."

46 **SECTION 3.** G.S. 128-27(a) reads as rewritten:

47 "(a) Service Retirement Benefits. –

48 (1) Any member may retire upon electronic submission or written application to
 49 the Board of Trustees setting forth at what time, as of the first day of a
 50 calendar month, not less than one day nor more than 120 days subsequent to
 51 the execution and filing thereof, he desires to be retired: Provided, that the

1 said member at the time so specified for his retirement shall have attained
2 the age of 60 years and have at least five years of creditable service or shall
3 have completed 30 years of creditable service, or if a ~~fireman, he~~ career
4 firefighter or career rescue squad worker, the member shall have attained the
5 age of 55 years and have at least five years of creditable service.

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

7 (3) Repealed by Session Laws 1971, c. 325, s. 12.

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

13 (5) Any member who is a law enforcement officer, career firefighter, or career
14 rescue squad worker and who attains age 50 and completes 15 or more years
15 of creditable service in this capacity or who attains age 55 and completes
16 five or more years of creditable service in this capacity, may retire upon
17 electronic submission or written application to the Board of Trustees setting
18 forth at what time, as of the first day of a calendar month, not less than one
19 day nor more than 120 days subsequent to the execution and filing thereof,
20 ~~he~~ the member desires to be retired; provided, also, any member who has met
21 the conditions required by this subdivision but does not retire, and later
22 becomes an employee other than as a law enforcement officer, career
23 firefighter, or career rescue squad worker continues to have the right to
24 commence retirement."

25 **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

26 "(b21) Service Retirement Allowance of Member Retiring on or After ~~July 1, 2003~~ July 1,
27 2003, but Before July 1, 2013. – Upon retirement from service in accordance with subsection
28 (a) or (a1) above, on or after July 1, 2003, but before July 1, 2013, a member shall receive the
29 following service retirement allowance:

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

33 a. If the member's service retirement date occurs on or after his 55th
34 birthday and completion of five years of creditable service as a law
35 enforcement officer, or after the completion of 30 years of creditable
36 service, the allowance shall be equal to one and eighty-five
37 hundredths percent (1.85%) of his average final compensation,
38 multiplied by the number of years of his creditable service.

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

44 1. The service retirement allowance payable under
45 G.S. 128-27(b21)(1)a. reduced by one-third of one percent
46 (1/3 of 1%) thereof for each month by which his retirement
47 date precedes the first day of the month coincident with or
48 next following the month the member would have attained his
49 55th birthday;

50 2. The service retirement allowance as computed under
51 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the

- 1 difference between 30 years and his creditable service at
2 retirement.
- 3 (2) A member who is not a law enforcement officer or an eligible former law
4 enforcement officer shall receive a service retirement allowance computed
5 as follows:
- 6 a. If the member's service retirement date occurs on or after his 65th
7 birthday upon the completion of five years of creditable service or
8 after the completion of 30 years of creditable service or on or after
9 his 60th birthday upon the completion of 25 years of creditable
10 service, the allowance shall be equal to one and eighty-five
11 hundredths percent (1.85%) of average final compensation,
12 multiplied by the number of years of creditable service.
- 13 b. If the member's service retirement date occurs after his 60th birthday
14 and before his 65th birthday and prior to his completion of 25 years
15 or more of creditable service, his retirement allowance shall be
16 computed as in G.S. 128-27(b21)(2) a. but shall be reduced by
17 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
18 which his retirement date precedes the first day of the month
19 coincident with or next following his 65th birthday.
- 20 c. If the member's early service retirement date occurs on or after his
21 50th birthday and before his 60th birthday and after completion of 20
22 years of creditable service but prior to the completion of 30 years of
23 creditable service, his early service retirement allowance shall be
24 equal to the greater of:
- 25 1. The service retirement allowance as computed under
26 G.S. 128-27(b21)(2)a. but reduced by the sum of
27 five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for each
28 month by which his retirement date precedes the first day of
29 the month coincident with or next following the month the
30 member would have attained his 60th birthday, plus
31 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month
32 by which his 60th birthday precedes the first day of the month
33 coincident with or next following his 65th birthday; or
- 34 2. The service retirement allowance as computed under
35 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
36 difference between 30 years and his creditable service at
37 retirement; or
- 38 3. If the member's creditable service commenced prior to July 1,
39 1995, the service retirement allowance equal to the actuarial
40 equivalent of the allowance payable at the age of 60 years as
41 computed in G.S. 128-27(b21)(2)b.
- 42 d. Notwithstanding the foregoing provisions, any member whose
43 creditable service commenced prior to July 1, 1965, shall not receive
44 less than the benefit provided by G.S. 128-27(b)."

45 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

46 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2013. – Upon
47 retirement from service in accordance with subsection (a) or (a1) of this section, on or after
48 July 1, 2013, a member shall receive the following service retirement allowance:

- 49 (1) A member who is a law enforcement officer, a career firefighter, a career
50 rescue squad worker, or an eligible former law enforcement officer, career

1 firefighter, or career rescue squad worker shall receive a service retirement
2 allowance computed as follows:

3 a. If the member's service retirement date occurs on or after the
4 member's 55th birthday and completion of five years of creditable
5 service as a law enforcement officer, career firefighter, or career
6 rescue squad worker, or after the completion of 30 years of creditable
7 service, the allowance shall be equal to one and eighty-five
8 hundredths percent (1.85%) of the member's average final
9 compensation, multiplied by the number of years of the member's
10 creditable service.

11 b. If the member's service retirement date occurs on or after the
12 member's 50th birthday and before the member's 55th birthday with
13 15 or more years of creditable service as a law enforcement officer,
14 career firefighter, or career rescue squad worker and prior to the
15 completion of 30 years of creditable service, the member's retirement
16 allowance shall be equal to the greater of:

17 1. The service retirement allowance payable under
18 G.S. 128-27(b21)(1)a. reduced by one-third of one percent
19 (1/3 of 1%) thereof for each month by which the member's
20 retirement date precedes the first day of the month coincident
21 with or next following the month the member would have
22 attained the member's 55th birthday; or

23 2. The service retirement allowance as computed under
24 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the
25 difference between 30 years and the member's creditable
26 service at retirement.

27 (2) A member who is not a law enforcement officer, a career firefighter, a career
28 rescue squad worker, or an eligible former law enforcement officer, career
29 firefighter, or career rescue squad worker shall receive a service retirement
30 allowance computed as follows:

31 a. If the member's service retirement date occurs on or after the
32 member's 65th birthday upon the completion of five years of
33 creditable service or after the completion of 30 years of creditable
34 service or on or after the member's 60th birthday upon the
35 completion of 25 years of creditable service, the allowance shall be
36 equal to one and eighty-five hundredths percent (1.85%) of average
37 final compensation, multiplied by the number of years of creditable
38 service.

39 b. If the member's service retirement date occurs after the member's
40 60th birthday and before the member's 65th birthday and prior to the
41 member's completion of 25 years or more of creditable service, the
42 member's retirement allowance shall be computed as in
43 G.S. 128-27(b21)(2)a. but shall be reduced by one-fourth of one
44 percent (1/4 of 1%) thereof for each month by which the member's
45 retirement date precedes the first day of the month coincident with or
46 next following the member's 65th birthday.

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

- 1 1. The service retirement allowance as computed under
2 G.S. 128-27(b21)(2)a. but reduced by the sum of
3 five-twelfths of one percent (5/12 of 1%) thereof for each
4 month by which the member's retirement date precedes the
5 first day of the month coincident with or next following the
6 month the member would have attained the member's 60th
7 birthday, plus one-fourth of one percent (1/4 of 1%) thereof for
8 each month by which the member's 60th birthday precedes
9 the first day of the month coincident with or next following
10 the member's 65th birthday; or
11 2. The service retirement allowance as computed under
12 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
13 difference between 30 years and the member's creditable
14 service at retirement; or
15 3. If the member's creditable service commenced prior to July 1,
16 1995, the service retirement allowance equal to the actuarial
17 equivalent of the allowance payable at the age of 60 years as
18 computed in G.S. 128-27(b21)(2)b.
19 d. Notwithstanding the foregoing provisions, any member whose
20 creditable service commenced prior to July 1, 1965, shall not receive
21 less than the benefit provided by G.S. 128-27(b)."

22 **SECTION 6.** This act becomes effective July 1, 2013, and applies to persons
23 retiring on or after that date.