

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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SENATE BILL 886  
PROPOSED COMMITTEE SUBSTITUTE S886-PCS35376-SH-77

Short Title: Retirement Amendments.

(Public)

Sponsors:

Referred to:

May 23, 2016

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE PENSION AND RETIREMENT AMENDMENTS.  
3 The General Assembly of North Carolina enacts:

4 **SECTION 1.(a)** G.S. 58-86-2 is amended by adding a new subdivision to read:

5 "(9a) "Killed in the line of duty" has the same meaning as in G.S. 143-166.2(c)."

6 **SECTION 1.(b)** G.S. 58-86-55 is amended by adding a new subsection to read:

7 "(d1) Benefits shall be paid in the following manner when a member is killed in the line of  
8 duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

9 (1) If the member had been receiving a monthly pension fund benefit prior to being  
10 killed in the line of duty, there shall be paid to the member's principal  
11 beneficiary, if only one principal beneficiary is eligible, an amount of one  
12 hundred seventy dollars (\$170.00) per month beginning the month following  
13 the member's month of death, payable until the beneficiary's death.

14 (2) If the member had been receiving a monthly pension fund benefit prior to being  
15 killed in the line of duty and the beneficiary is not payable as described in  
16 subdivision (1) of this subsection, a lump sum payment equal to the difference  
17 between the amount paid into the member's separate account by or on behalf of  
18 the member and the amount received by the member as a pensioner will be paid  
19 to the eligible beneficiaries, or if there are no eligible beneficiaries, shall be  
20 paid to the member's estate.

21 (3) If the member had not yet begun receiving a monthly benefit prior to being  
22 killed in the line of duty, there shall be paid to the member's principal  
23 beneficiary, if only one principal beneficiary is eligible, an amount of one  
24 hundred seventy dollars (\$170.00) per month beginning the month following  
25 the month the member would have attained age 55, or if the member had  
26 already attained age 55, beginning the month following the member's month of  
27 death, payable until the beneficiary's death.

28 (4) If the member had not begun receiving a monthly benefit prior to being killed  
29 in the line of duty and the beneficiary is not payable as described in subdivision  
30 (3) of this section, a lump sum payment equal to the member's contributions  
31 will be paid to the eligible beneficiaries, or if there are no eligible beneficiaries,  
32 a return of the contributions shall be paid to the member's estate.

33 A beneficiary under this subsection shall not be required to make the monthly payment of ten  
34 dollars (\$10.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after the member has been killed  
35 in the line of duty."

36 **SECTION 1.(c)** G.S. 58-86-60 reads as rewritten:



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**"§ 58-86-60. Payments in lump sums.**

The board shall direct payment in lump sums from the fund in the following cases:

- (1) To any firefighter or rescue squad worker upon the attaining of the age of 55 years, who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the fund, an amount equal to the amount paid into the fund by him. This provision shall not be construed to preclude any active firefighter or rescue squad worker from completing the requisite number of years of active service after attaining the age of 55 years necessary to entitle the firefighter or rescue squad worker to the pension.
- (2) If any firefighter or rescue squad worker ~~dies~~dies, except if the individual is killed in the line of duty, before attaining the age at which a pension is payable to the firefighter or rescue squad worker under the provisions of this Article, there shall be paid ~~to his or her surviving spouse, or if there be no surviving spouse, to the person responsible for his or her child or children, or if there be no surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs,~~to the person or persons designated by the member, or if the member has not designated a beneficiary, to the surviving spouse of the deceased member, or if not survived by a designated beneficiary or spouse, to the deceased member's legal representative, an amount equal to the amount paid into the member's separate account by or on behalf of the said firefighter or rescue squad worker.
- (3) If any firefighter or rescue squad worker ~~dies~~dies, except if the individual is killed in the line of duty, after beginning to receive the pension payable to the firefighter or rescue squad worker by this Article, and before receiving an amount equal to the amount paid into the fund by him or her, there shall be paid ~~to his or her surviving spouse, or if there be no surviving spouse, then to the person responsible for his or her child or children, or if there be no surviving spouse or children, then to his or her heirs at law as may be determined by the board or to his or her estate, if it is administered and there are no heirs,~~to the person or persons designated by the member, or if the member has not designated a beneficiary, to the surviving spouse of the deceased retired member, or if not survived by a designated beneficiary or spouse, to the deceased retired member's legal representative, an amount equal to the difference between the amount paid into the member's separate account by or on behalf of the said firefighter or rescue squad worker and the amount received by him or her as a pensioner.
- (4) Any member who withdraws from the fund shall, upon proper application, be paid all moneys without accumulated earnings on the payments after the time they were made. A member may not purchase time under G.S. 58-86-45 for which he or she has received a refund."

**SECTION 1.(d)** This section becomes effective July 1, 2018, and applies to benefits paid when a member is killed in the line of duty on or after that date.

**SECTION 2.(a)** The February 5, 2008, Attorney General's advisory opinion entitled "Advisory Opinion: Confidentiality of Retirement Benefit Information; Session Law 2007-508" concluded that information about retirement benefits was intended to be included among those records required to be maintained for public inspection by each department, agency, institution, commission, and bureau of the State and that as a result the Retirement Systems Division of the Department of the State Treasurer makes that information available for public inspection and examination. The General Assembly finds that the interests of clarity require statutory language providing guidance to the Retirement Systems Division in determining and maintaining

1 consistency as to what information should be made available about the retirement accounts of  
2 State and local employees.

3 **SECTION 2.(b)** Article 1 of Chapter 135 of the General Statutes is amended by  
4 adding a new section to read:

5 **"§ 135-6.1. Member retirement record files held by the Retirement System.**

6 (a) The following definitions apply in this section:

7 (1) Employment-related information. – As defined in G.S. 126-22(b)(3).

8 (2) Personal information. – As defined in G.S. 126-22(b)(3).

9 (3) Retirement file. – Any employment-related, retirement-related, or personal  
10 information of members in a State-administered retirement plan gathered by the  
11 Retirement Systems Division of the Department of State Treasurer.

12 (4) Retirement-related information. – Information including membership and  
13 service details, benefit payment information, and other information the  
14 Retirement Systems Division of the Department of State Treasurer deems  
15 necessary to administer a retirement plan.

16 (b) Member retirement files are not subject to inspection and examination as authorized by  
17 G.S. 132-6 except as provided in G.S. 135-6(p), G.S. 128-28(q), and subsections (c), (d), and (e)  
18 of this section.

19 (c) The following information regarding members and individuals in receipt of a recurring  
20 monthly benefit, if held by the Retirement System, is public and subject to subsection (d) of this  
21 section:

22 (1) Name.

23 (2) Age.

24 (3) Date of membership in the applicable Retirement System, first service earned  
25 date, date of first enrollment, date of first employment, and date of retirement.

26 (4) The terms of any contract by which the member is employed whether written or  
27 oral, past and current, to the extent that the Retirement System has the written  
28 contract or a record of the oral contract in its possession.

29 (5) Current or most recently held position or title.

30 (6) Compensation and other relevant remuneration history and benefits paid.

31 (7) Date, general description, and type of each change and the corresponding  
32 employing agency.

33 (8) The office or station to which the member is currently assigned, if any.

34 (9) The record of benefit payments made by one of the Retirement Systems or  
35 Disability Benefits Programs administered by the Department of State  
36 Treasurer to a member or to the survivor, beneficiary, or alternate payee of a  
37 member.

38 (10) Purchases of educational leave.

39 (d) Subject only to rules and policies for the safekeeping of member retirement files  
40 adopted by the Board of Trustees, every person having custody of the retirement file information  
41 outlined in subsection (b) of this section shall permit the information to be inspected and examined  
42 and copies thereof made by any person during regular business hours. Any person who is denied  
43 access to any retirement file for the purpose of inspecting, examining, or copying the file has a  
44 right to compel compliance with the provisions of this section by application to a court of  
45 competent jurisdiction for a writ of mandamus or other appropriate relief.

46 (e) The Retirement Systems Division of the Department of State Treasurer may disclose  
47 the name and mailing address of former State employees, former public school employees, or  
48 former community college employees to domiciled, nonprofit organizations representing 10,000  
49 or more retired State government, local government, or public school employees.

1        (f) All information other than the information listed in subsection (c) of this section  
2 contained in a retirement file is confidential and not open for inspection and examination except to  
3 the following persons:

4            (1) The member, or the member's authorized agent, who may examine his or her  
5 own retirement file, except for any information concerning a medical disability,  
6 mental or physical, that a prudent physician would not divulge to a patient. A  
7 member's medical record may be disclosed to a licensed physician in writing by  
8 the member.

9            (2) A member of the General Assembly who may inspect and examine records  
10 under the authority of G.S. 120-19.

11            (3) A party by authority of a proper court order may inspect and examine a  
12 particular confidential portion of a member's retirement file.

13        (g) Any public official or employee who knowingly and willfully permits any person to  
14 have access to or custody or possession of any portion of a retirement file designated as  
15 confidential by this section, unless the person is one specifically authorized by this section to have  
16 access thereto for inspection and examination, is guilty of a Class 3 misdemeanor and upon  
17 conviction shall only be fined in the discretion of the court but not in excess of five hundred  
18 dollars (\$500.00).

19        (h) Any person not specifically authorized by this section to have access to a retirement  
20 file designated as confidential by this section, who knowingly and willfully examines, removes, or  
21 copies any portion of a confidential retirement file, is guilty of a Class 3 misdemeanor and upon  
22 conviction shall be fined in the discretion of the court but not in excess of five hundred dollars  
23 (\$500.00)."

24        **SECTION 2.(c)** Article 3 of Chapter 128 of the General Statutes is amended by  
25 adding a new section to read:

26 **"§ 128-33.1. Public records held by the Retirement System.**

27        (a) The following definitions apply in this section:

28            (1) Employment-related information. – As defined in G.S. 126-22(b)(3).

29            (2) Personal information. – As defined in G.S. 126-22(b)(3).

30            (3) Retirement file. – Any employment-related, retirement-related, or personal  
31 information of members in a State-administered retirement plan gathered by the  
32 Retirement Systems Division of the Department of State Treasurer.

33            (4) Retirement-related information. – Information including membership and  
34 service details, benefit payment information, and other information the  
35 Retirement Systems Division of the Department of State Treasurer deems  
36 necessary to administer a retirement plan.

37        (b) Member retirement files are not subject to inspection and examination as authorized by  
38 G.S. 132-6 except as provided in G.S. 135-6(p), G.S. 128-28(q), and subsections (c), (d), and (e)  
39 of this section.

40        (c) The following information regarding members and individuals in receipt of a recurring  
41 monthly benefit, if held by the Retirement System, is public subject to subsection (d) of this  
42 section:

43            (1) Name.

44            (2) Age.

45            (3) Date of membership in the applicable Retirement System, first service earned  
46 date, date of first enrollment, date of first employment, and date of retirement.

47            (4) The terms of any contract by which the member is employed whether written or  
48 oral, past and current, to the extent that the Retirement System has the written  
49 contract or a record of the oral contract in its possession.

50            (5) Current or most recently held position or title.

51            (6) Compensation and other relevant remuneration history and benefits paid.

- 1           (7)    Date, general description, and type of each change and the corresponding  
2           employing agency.
- 3           (8)    The office or station to which the member is currently assigned, if any.
- 4           (9)    The record of benefit payments made by one of the Retirement Systems or  
5           Disability Benefits Programs administered by the Department of State  
6           Treasurer to a member or to the survivor, beneficiary, or alternate payee of a  
7           member.
- 8           (10) Purchases of educational leave.
- 9        (d)    Subject only to rules and policies for the safekeeping of member retirement files  
10 adopted by the Board of Trustees, every person having custody of the retirement file information  
11 outlined in subsection (b) of this section shall permit the information to be inspected and examined  
12 and copies thereof made by any person during regular business hours. Any person who is denied  
13 access to any retirement file for the purpose of inspecting, examining, or copying the file has a  
14 right to compel compliance with the provisions of this section by application to a court of  
15 competent jurisdiction for a writ of mandamus or other appropriate relief.
- 16        (e)    The Retirement Systems Division of the Department of State Treasurer may disclose  
17 the name and mailing address of former State employees, former public school employees, or  
18 former community college employees to domiciled, nonprofit organizations representing 10,000  
19 or more retired State government, local government, or public school employees.
- 20        (f)    All information other than the information listed in subsection (c) of this section  
21 contained in a retirement file is confidential and not open for inspection and examination except to  
22 the following persons:
- 23           (1)    The member, or the member's authorized agent, who may examine his or her  
24 own retirement file, except for any information concerning a medical disability,  
25 mental or physical, that a prudent physician would not divulge to a patient. A  
26 member's medical record may be disclosed to a licensed physician in writing by  
27 the member.
- 28           (2)    A member of the General Assembly who may inspect and examine records  
29 under the authority of G.S. 120-19.
- 30           (3)    A party by authority of a proper court order may inspect and examine a  
31 particular confidential portion of a member's retirement file.
- 32        (g)    Any public official or employee who knowingly and willfully permits any person to  
33 have access to or custody or possession of any portion of a retirement file designated as  
34 confidential by this section, unless the person is one specifically authorized by this section to have  
35 access thereto for inspection and examination, is guilty of a Class 3 misdemeanor and upon  
36 conviction shall only be fined in the discretion of the court but not in excess of five hundred  
37 dollars (\$500.00).
- 38        (h)    Any person not specifically authorized by this section to have access to a retirement  
39 file designated as confidential by this section, who knowingly and willfully examines, removes, or  
40 copies any portion of a confidential retirement file, is guilty of a Class 3 misdemeanor and upon  
41 conviction shall be fined in the discretion of the court but not in excess of five hundred dollars  
42 (\$500.00)."
- 43        **SECTION 2.(d)** G.S. 126-22 reads as rewritten:
- 44        **"§ 126-22. Personnel files not subject to inspection under § 132-6.**
- 45           (a)    Except as provided in G.S. 126-23 and G.S. 126-24, personnel files of State employees  
46 shall not be subject to inspection and examination as authorized by G.S. 132-6.
- 47           (b)    For purposes of this Article the following definitions apply:
- 48                (1)    "Employee" means any current State employee, former State employee, or  
49 applicant for State employment.
- 50                (2)    "Employer" means any State department, university, division, bureau,  
51 commission, council, or other agency subject to Article 7 of this Chapter.

- 1 (3) "Personnel file" means any employment-related or personal information  
2 gathered by an ~~employer, the Retirement Systems Division of the Department~~  
3 ~~of State Treasurer, employer~~ or by the Office of State Human Resources.  
4 Employment-related information contained in a personnel file includes  
5 information related to an individual's application, selection, promotion,  
6 demotion, transfer, leave, salary, contract for employment, benefits, suspension,  
7 performance evaluation, disciplinary actions, and termination. Personal  
8 information contained in a personnel file includes an individual's home address,  
9 social security number, medical history, personal financial data, marital status,  
10 dependents, and beneficiaries.
- 11 (4) "Record" means the personnel information that each employer is required to  
12 maintain in accordance with G.S. 126-23.

13 (c) Personnel files of former State employees who have been separated from State  
14 employment for 10 or more years may be open to inspection and examination except for papers  
15 and documents relating to demotions and to disciplinary actions resulting in the dismissal of the  
16 ~~employee and personnel files maintained by the Retirement Systems Division of the Department~~  
17 ~~of State Treasurer-employee.~~ Retirement files maintained by the Retirement Systems Division of  
18 the Department of State Treasurer shall be made public pursuant to G.S. 128-33.1 and  
19 G.S. 135-6.1.

20 (d) ~~Notwithstanding any provision of this section to the contrary, the Retirement Systems~~  
21 ~~Division of the Department of State Treasurer may disclose the name and mailing address of~~  
22 ~~former State employees to domiciled, nonprofit organizations representing 10,000 or more retired~~  
23 ~~State government, local government, or public school employees."~~

24 **SECTION 2.(e)** G.S. 115C-321(b1) is repealed.

25 **SECTION 2.(f)** G.S. 115D-29(c) is repealed.

26 **SECTION 2.(g)** G.S. 153A-98(c3) is repealed.

27 **SECTION 2.(h)** G.S. 160A-168(c3) is repealed.

28 **SECTION 3.(a)** G.S. 135-10.1 reads as rewritten:

29 **"§ 135-10.1. Failure to respond.**

30 If a member fails to respond within 120 days after preliminary option figures and the Form 6-E  
31 or Form 7-E are ~~mailed, transmitted to the member,~~ or if a member fails to respond within 120  
32 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null  
33 and void; the retirement system shall not be liable for any benefits due on account of the voided  
34 application, and a new application must be filed establishing a subsequent effective date of  
35 retirement. If an applicant for disability retirement fails to furnish requested additional medical  
36 information within 90 days following such request, the application shall be declared null and void  
37 under the same conditions outlined above, unless the applicant is eligible for early or service  
38 retirement in which case the application shall be processed accordingly, using the same effective  
39 date as would have been used had the application for disability retirement been approved. The  
40 Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may  
41 extend the 120-day limitation provided for in this section when a member has suffered  
42 incapacitation such that a reasonable person would not have expected the member to be able to  
43 complete the required paperwork within the regular deadline, or when an omission by the  
44 Retirement Systems Division prevents the member from having sufficient time to meet the regular  
45 deadline."

46 **SECTION 3.(b)** G.S. 128-32.1 reads as rewritten:

47 **"§ 128-32.1. Failure to respond.**

48 If a member fails to respond within 120 days after preliminary option figures and the Form 6-E  
49 or Form 7-E are ~~mailed, transmitted to the member,~~ or if a member fails to respond within 120  
50 days after the effective date of retirement, whichever is later, the Form 6 or Form 7 shall be null  
51 and void; the retirement system shall not be liable for any benefits due on account of the voided

1 application, and a new application must be filed establishing a subsequent effective date of  
2 retirement. If an applicant for disability retirement fails to furnish requested additional medical  
3 information within 90 days following such request, the application shall be declared null and void  
4 under the same conditions outlined above, unless the applicant is eligible for early or service  
5 retirement in which case the application shall be processed accordingly, using the same effective  
6 date as would have been used had the application for disability retirement been approved. The  
7 Director of the Retirement Systems Division, acting on behalf of the Board of Trustees, may  
8 extend the 120-day limitation provided for in this section when a member has suffered  
9 incapacitation such that a reasonable person would not have expected the member to be able to  
10 complete the required paperwork within the regular deadline, or when an omission by the  
11 Retirement Systems Division prevents the member from having sufficient time to meet the regular  
12 deadline."

13 **SECTION 4.** G.S. 147-79(a) reads as rewritten:

14 "(a) The amount of funds deposited by the State Treasurer in an official depository shall be  
15 adequately secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home  
16 Loan Bank, or investment securities of such nature, in such amounts, and in such manner, as may  
17 be prescribed by rule or regulation of the State Treasurer with the approval of the Governor and  
18 Council of State. No security is required for the protection of funds remitted to and received by a  
19 bank or trust company designated by the State Treasurer under G.S. 142-1 and acting as paying  
20 agent for the payment of the principal of or interest on bonds or notes of the State."

21 **SECTION 5.** The Board of Trustees of the Local Governmental Employees'  
22 Retirement System shall develop a "State Contribution Rate Stabilization Policy" for the North  
23 Carolina Firefighters' and Rescue Squad Workers' Pension Fund and report it to the Office of State  
24 Budget and Management and the Fiscal Research Division on or before March 1, 2017.

25 **SECTION 6.** If any provision of this act or its application is held invalid, the  
26 invalidity does not affect other provisions or applications of this act that can be given effect  
27 without the invalid provisions or application, and to this end the provisions of this act are  
28 severable.

29 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes law.