

1998

**SENATE
PENSIONS &
RETIREMENT &
INSURANCE
COMMITTEE**

MINUTES

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE

Tommy Jenkins, Chairman

Bob Martin
Vice Chair

Eric Reeves
Vice Chair

Larry Shaw
Vice Chair

Donald Kincaid
Vice Chair

James McDaniel
Ranking Minority Member

Fountain Odom

Aaron Plyler

Luther Jordan

Allen Wellon

Eleanor Kinnaird

R. C. Soles

Robert Carpenter

Robert Shaw

Hugh Webster

Don East

John Carrington

David Weinstein

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

SENATE: PENSIONS & RETIREMENT & INSURANCE

Valid Through 28-OCT-1998

BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
H 5	ALDRIDGE	HEALTH COVERAGE/DIABETES	*R -CH. SL 97-0225	05-06-97	06-05-97
H 312=	GOODWIN	UPDATE MORTALITY TABLES	*R -CH. SL 97-0133	04-28-97	05-15-97
H 391=	JARRELL	HIGH POINT FIREMEN'S PENSION	R -CH. SL 97-0067	04-21-97	05-15-97
H 434	DOCKHAM	FEDERAL HEALTH INSURANCE CHANGES	*R -CH. SL 97-0259	05-06-97	06-12-97
H 452	REDWINE	BEACH PLAN AMENDMENTS	*R -CH. SL 97-0498	04-28-97	06-25-97
H 522=	BUCHANAN	STATE FIRE AND RESCUE COMMISSION	R -CH. SL 97-0116	04-28-97	05-15-97
H 926	BRAWLEY	INSURANCE LAW CHANGES	*H -RATIFIED	05-06-97	09-02-98
H1024=	HURLEY	FOREIGN INSURER LICENSING	*R -CH. SL 97-0179	04-29-97	05-22-97
H1052	MILLER G	EXCLUDE EXCESS COVERAGE/COVENANTS	*R -CH. SL 97-0396	04-30-97	07-03-97
H1062	BERRY	CHILD SUPPORT/HEALTH COVERAGE	*S -REF TO COM ON PENSIONS	05-06-97	
H1115	BOYD-MCINTYRE	CHURCH INSURANCE COVERAGE	*R -CH. SL 97-0438	05-06-97	07-30-97
H1277=	HURLEY	FAYETTEVILLE PUBLIC WORKS RETIREMENT	R -CH. SL 98-0061	06-29-98	07-22-98
H1362	PRESTON	MILITARY SERVICE CREDIT	H -PRES. TO GOV. 10-23	06-24-98	10-15-98
H1396	GRAY	WINSTON-SALEM FIREMEN'S RETIREMENT	*R -CH. SL 98-0092	07-20-98	08-11-98
H1522	MINER	LOCAL/STATE PURCHASE OF SERVICE	R -CH. SL 98-0071	07-08-98	07-22-98
H1525	YONGUE	REPEAL LAURINBURG SUPP. PENSION	R -CH. SL 98-0063	06-29-98	07-22-98
H1538	ARNOLD	SHARPSBURG RETIREMENT SYSTEM	R -CH. SL 98-0093	06-29-98	08-11-98
S 6	WINNER	REVISE SCHOOL CALENDAR	*S -RE-REF COM ON APPROPR	03-06-97	04-03-97
S 118	PERDUE	ACCIDENT PREVEN. COURSE REDUCTION	*S -RE-REF COM ON APPROPR	02-17-97	04-24-97
S 128=	ODOM	NO INS. POINTS/15 MPH OVER LIMIT	*S -RE-REF COM ON JUDIC	02-17-97	04-29-97
S 190	WARREN	INCREASE PENSION BENEFITS-2	S -RE-REF COM ON APPROPR	02-19-97	04-10-97
S 234	KINCAID	INCREASE AMTS FOR INSURANCE POINTS	*R -CH. SL 97-0332	02-24-97	03-13-97
S 235=	MARTIN R	INCREASE PENSION BENEFITS-3	*S -RE-REF COM ON APPROPR	02-25-97	04-03-97
S 254=	ODOM	GENETIC INFO/NO DISCRIMINATION	*R -CH. SL 97-0350	02-27-97	04-03-97
S 273	FORRESTER	MASTECTOMY/HOSPITAL STAY	*R -CH. SL 97-0440	03-03-97	03-12-97
S 297=	GULLEY W	AMEND CHARTER SCHOOL LAWS	*R -CH. SL 97-0430	04-03-97	04-28-97
S 299	MARTIN R	LONG-TERM CARE BENEFITS	*R -CH. SL 97-0468	03-05-97	04-10-97
S 301=	MARTIN W	HIGH POINT FIREMEN'S PENSION	S -REF TO COM ON PENSIONS	03-05-97	
S 345=	REEVES	UPDATE MORTALITY TABLES	S -RE-REF COM ON PENSIONS	03-10-97	04-24-97
S 345=	REEVES	UPDATE MORTALITY TABLES	S -RE-REF COM ON PENSIONS	05-19-97	

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BOLDLED LINE INDICATES BILL INDEXED AS AFFECTING APPROPRIATIONS.

NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session		SENATE: PENSIONS & RETIREMENT & INSURANCE		Valid Through 28-OCT-1998	
BILL	INTRODUCER	SHORT TITLE	LATEST ACTION ON BILL	IN DATE	OUT DATE
S 350	SOLES	SUPPLEMENTAL INSURANCE BENEFITS	*R -CH. SL 98-0187	03-10-97	03-27-97
S 400=	WINNER	MENTAL HEALTH PARITY	*H -ASSIGNED TO INS-HLTH	03-17-97	04-28-97
S 420=	MARTIN W	STATE FIRE AND RESCUE COMMISSION	S -REF TO COM ON PENSIONS	03-18-97	
S 434	FORRESTER	NATIONAL GUARD HEALTH BENEFITS	*S -RE-REF COM ON RULES &	03-20-97	04-24-97
S 435	FORRESTER	PHYSICIAN-PATIENT COMMUNICATIONS	S -REF TO COM ON PENSIONS	03-20-97	
S 455=	HOYLE	IMPROVE HMO SERVICES	*R -CH. SL 97-0474	03-24-97	04-29-97
S 494=	RAND	PUB. DEF./APP. DEF. RETIREMENT	S -RE-REF COM ON APPROPR	06-04-98	06-17-98
S 538	BALLANCE	PROF. FIREFIGHTERS' RETIREMENT	*S -RE-REF COM ON APPROPR	03-27-97	04-28-97
S 609	MILLER B	INSURANCE AUDIT RECOMMENDATIONS	S -RE-REF COM ON APPROPR	04-01-97	04-10-97
S 611	MILLER B	INSURANCE FRONTING	*H -REF TO COM ON RULES	04-01-97	04-30-97
S 612	MILLER B	INSURER FINANCIAL OPERATIONS	*H -REF TO COM ON RULES	04-01-97	04-10-97
S 613	MILLER B	INSURANCE COMPANY AUDITS AND EXAMS	*H -REF TO COM ON RULES	04-01-97	04-30-97
S 614	MILLER B	INSURANCE LICENSING AMENDMENTS	H -REF TO COM ON RULES	04-01-97	04-21-97
S 673	ODOM	AMEND LEO RETIREMENT DEFINITION	*R -CH. SL 97-0144	04-02-97	04-28-97
S 677	CONDER	REPEAL ALBEMARLE FIREMEN'S PENSION	R -CH. SL 97-0052	04-03-97	04-17-97
S 713	REEVES	RALEIGH FIREMEN'S SUPP RETIREMENT	R -CH. SL 97-0460	04-07-97	04-17-97
S 714	FORRESTER	RECONSTRUCTIVE SURGERY/COVERAGE-2	*R -CH. SL 97-0312	04-07-97	04-29-97
S 747	JENKINS	1997 RETIREMENT BENEFITS ACT	S -RE-REF COM ON APPROPR	04-07-97	04-10-97
S 778	WARREN	FIRE MARSHALL RETIREMENT	*S -RE-REF COM ON APPROPR	04-10-97	07-01-97
S 785	MARTIN W	DIRECT PAYMENT SUNSETS OFF	R -CH. SL 97-0197	04-10-97	04-23-97
S 796	MARTIN R	AREOLA RECONSTRUCTION COVERAGE	S -REF TO COM ON PENSIONS	04-10-97	
S 797	MILLER B	HEALTH & LIFE INSURANCE AMENDMENTS	H -REF TO COM ON RULES	04-10-97	04-30-97
S 843	JENKINS	INSURANCE TECHNICAL CHANGES	*H -CONF COM APPOINTED	04-15-97	04-29-97
S 843	JENKINS	INSURANCE TECHNICAL CHANGES	*H -CONF COM APPOINTED	08-28-97	
S 881	WINNER	COVERAGE FOR EMERGENCY SERVICES	S -REF TO COM ON PENSIONS	04-15-97	
S 944	RAND	BARBER EXAMINERS RETIREMENT	S -REF TO COM ON PENSIONS	04-17-97	
S 964=	MILLER B	FOREIGN INSURER LICENSING	S -REF TO COM ON PENSIONS	04-17-97	
S 975	KINCAID	WORKERS' COMP SELF-INSURANCE	*R -CH. SL 97-0362	04-21-97	04-23-97
S1029	MILLER B	INSOLVENT INSURER REVENUE BONDS	*S -RE-REF COM ON FINANCE	04-21-97	05-22-97
S1036	KERR	INSURANCE GUARANTY ASSOC. AMENDMENTS	S -REF TO COM ON PENSIONS	04-21-97	

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NORTH CAROLINA GENERAL ASSEMBLY
COMMITTEE SUMMARY REPORT

1997-98 Regular Session

SENATE: PENSIONS & RETIREMENT & INSURANCE

Valid Through 28-OCT-1998

<u>BILL</u>	<u>INTRODUCER</u>	<u>SHORT TITLE</u>	<u>LATEST ACTION ON BILL</u>	<u>IN DATE</u>	<u>OUT DATE</u>
S1138	HARTSELL	CREDIT FOR PROBATIONARY EMPLOYMENT	R -CH. SL 98-0190	05-18-98	06-24-98
S1165	BALLANCE	FIREFIGHTERS' BENEFITS	S -REF TO COM ON PENSIONS	05-19-98	
S1180=	WARREN	FIRE AND RESCUE SQUAD PENSIONS	*S -RE-REF COM ON APPROPR	05-20-98	06-23-98
S1183=	RAND	FAYETTEVILLE PUBLIC WORKS RETIREMENT	S -RE-REF COM ON APPROPR	05-20-98	06-17-98
S1334	COOPER	CAMPUS LEO SALARY CONTINUATION	S -RE-REF COM ON APPROPR	06-29-98	06-30-98
S1407	CARPENTER R	REG. OF DEEDS SUPP. PENSION CHANGE	R -CH. SL 98-0147	05-28-98	06-17-98
S1461	ALLRAN	INSURANCE COVERAGE FOR INFERTILITY	S -REF TO COM ON PENSIONS	05-28-98	
S1463=	JENKINS	1998 RETIREMENT BENEFITS ACT	*S -RE-REF COM ON APPROPR	05-28-98	06-29-98
S1464=	JENKINS	INCREASE RETIREE DEATH BENEFIT	S -RE-REF COM ON APPROPR	05-28-98	06-17-98
S1465	JENKINS	MODIFY OPTIONAL ALLOWANCE	*S -RE-REF COM ON APPROPR	05-28-98	06-23-98
S1517	LEE	RETIRED TEACHERS/RETIREMENT BENEFITS	*S -RE-REF COM ON APPROPR	05-28-98	06-24-98
S1517	LEE	RETIRED TEACHERS/RETIREMENT BENEFITS	*S -RE-REF COM ON APPROPR	06-25-98	06-29-98
S1551	GULLEY W	CHARTER SCHOOL BENEFITS	S -RE-REF COM ON PENSIONS	06-25-98	

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NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Wednesday, June 17, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	494	Pub. Def./App. Def. Retirement.
		Sequential Referral: None
		Recommended Referral: Appropriations

S.B.	1183	Fayetteville Public Works Retirement.
		Sequential Referral: None
		Recommended Referral: Appropriations

S.B.	1407	Reg. of Deeds Supp. Pension Change.
		Sequential Referral: None
		Recommended Referral: Appropriations

S.B.	1464	Increase Retiree Death Benefit.
		Sequential Referral: Appropriations
		Recommended Referral: None

TOTAL REPORTED: 4

Committee Clerk Comment: None

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Tuesday, June 23, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B	1180	Fire and Rescue Squad Pensions.
		Draft Number: PCSA868
		Sequential Referral Appropriations
		Recommended Referral: None
		Long Title Amended: No

S.B.	1465	Modify Election of Optional Allowance.
		Draft Number: PCS6846
		Sequential Referral: Appropriations
		Recommended Referral: None
		Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment: None

MINUTES

The Pensions & Retirement/ Insurance Committee met Wednesday , June 17, 1998 at 10:00 am in room 1124 of the Legislative Building. There were thirteen Senators in attendance, including Sen. Jenkins who presided.

SB 494 Pub. Def./Retirement was explained by Sen. Rand. Sen. East moved for favorable report. The motion carried. Sen. Jenkins referred the bill to Appropriations.

SB 1183 Fayetteville Public Works was explained by Sen. Rand. Sen. East moved for a favorable report. The motion carried. Sen. Jenkins referred the bill to Appropriations.

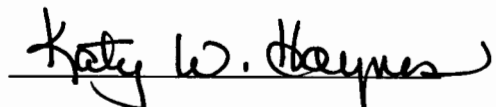
SB 1180 Fire and Rescue Squad Pensions was explained by Sen. Warren. Stanley Moore, Fiscal Research Staff, gave further explanation. Sen. Weinstein sent forth an amendment. It was unanimously approved. Sen. Caprenter moved for an unfavorable as to the original bill, but favorable as to the committee substitute. The motion carried. Sen. Jenkins referred the bill to Appropriations.

SB 1407 Reg. Of Deeds Supp. Pension Change was explained by Sen. Carpenter. Stanley Moore, Fiscal Research Staff, gave further explanation. Sen. Webster moved for a favorable report. The motion carried. Sen. Jenkins referred the bill to Appropriations.

SB 1465 Modify Optional Allowance was explained by Sen. Jenkins. Stanley Moore, Fiscal Research Staff, gave further explanation. Sen. Wellons sent forth an amendment. The amendment was approved. Sen. Wellons moved for an unfavorable as to the original bill, but favorable as to committee substitute. The motion carried. Sen. Jenkins referred the bill to Appropriations.

SB 1464 Increase Retiree Death Benefits was introduced by Sen. Jenkins. Stanley Moore , Fiscal Research Staff, gave further explanation. Sen. Webster moved for favorable report. The motion carried. The bill was referred to Appropriations.

The meeting was adjourned.

A handwritten signature, likely of Stanley Moore, written over a horizontal line. The signature is stylized and appears to be "LJ - [unclear]".A handwritten signature, likely of Katy W. Haynes, written over a horizontal line. The signature is cursive and clearly legible.

PENSION & RETIREMENT/ INSURANCE COMMITTEE

Wednesday
June 17, 1998
10:00am

AGENDA

SB 1465 Modify Optional Allowance
Sen. Jenkins

SB 1464 Increase Retiree Death Benefits
Sen. Jenkins

SB 14 63 1998 Retirement Benefits Act
Sen. Jenkins

SB 1407 Reg. of Deeds Supp. Pension Change
Sen. Carpenter

SB 1183 Fayetteville Public Works
Sen. Rand

SB 1180 Fire and Rescue Squad Pensions
Sen. Warren

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 494

Short Title: Pub. Def./App. Def. Retirement.

(Public)

Sponsors: Senators Rand; Ballance, Gulley, and Wellons.

Referred to: Appropriations.

March 25, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO INCLUDE PUBLIC DEFENDERS AND THE APPELLATE
3 DEFENDER AS MEMBERS OF THE CONSOLIDATED JUDICIAL
4 RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 135-50(b) reads as rewritten:

7 "(b) The purpose of this Article is to improve the administration of justice by
8 attracting and retaining the most highly qualified talent available within the State to
9 the positions of justice and judge, district attorney and solicitor, public defender, and
10 clerk of superior court, within the General Court of Justice."

11 Section 2. G.S. 135-51 reads as rewritten:

12 "§ 135-51. Scope.

13 (a) This Article provides consolidated retirement benefits for all justices and
14 judges, district attorneys, and solicitors who are serving on January 1, 1974, and who
15 become such thereafter; and for all clerks of superior court who are so serving on
16 January 1, 1975, and who become such ~~thereafter~~ after that date; and for all public
17 defenders who are serving on July 1, 1997, and who become public defenders after
18 that date.

19 (b) For justices and judges of the appellate and superior court divisions of the
20 General Court of Justice who so served prior to January 1, 1974, the provisions of
21 this Article supplement and, under certain circumstances, replace the provisions of
22 Articles 6 and 8, as the case may be, of Chapter 7A of the General Statutes.

23 For district attorneys and judges of the district court of the General Court of
24 Justice who so served prior to January 1, 1974, the provisions of this Article

1 supplement and, under certain circumstances, replace the provisions of Article 1 of
2 this Chapter.

3 For public defenders of the General Court of Justice who so served prior to July 1,
4 1997, the provisions of this Article supplement and, under certain circumstances,
5 replace the provisions of Article 1 of this Chapter.

6 For clerks of superior court of the General Court of Justice who so served prior to
7 January 1, 1975, the provisions of this Article supplement and, under certain
8 circumstances, replace the provisions of Article 1 of this Chapter.

9 (c) The retirement benefits of any person who becomes a justice or judge, district
10 attorney, or solicitor on and after January 1, 1974, or clerk of superior court on and
11 after January 1, 1975, or public defender on or after July 1, 1997, shall be determined
12 solely in accordance with the provisions of this Article."

13 Section 3. G.S. 135-53 reads as rewritten:

14 "§ 135-53. Definitions.

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

- 17 (1) 'Accumulated contributions' with respect to any member shall
18 mean the sum of all the amounts deducted from the compensation
19 of the member pursuant to G.S. 135-68 since he last became a
20 member and credited to his account in the annuity savings fund,
21 plus any amount standing to his credit pursuant to G.S. 135-67(c)
22 as a result of a prior period of membership, plus any amounts
23 credited to his account pursuant to G.S. 135-28.1(b) or 135-56(b),
24 together with regular interest on all such amounts computed as
25 provided in G.S. 135-7(b).
- 26 (2) 'Actuarial equivalent' shall mean a benefit of equal value when
27 computed upon the bases of such mortality tables as shall be
28 adopted by the Board of Trustees, and regular interest.
- 29 (3) 'Beneficiary' shall mean any person in receipt of a retirement
30 allowance or other benefit as provided in this Article.
- 31 (4) 'Board of Trustees' shall mean the Board of Trustees established
32 by G.S. 135-6.
- 33 (4a) 'Clerk of superior court' shall mean the clerk of superior court
34 provided for in G.S. 7A-100(a).
- 35 (5) 'Compensation' shall mean all salaries and wages derived from
36 public funds which are earned by a member of the Retirement
37 System for his service as a justice or judge, or district attorney, or
38 clerk of superior court.
- 39 (6) 'Creditable service' shall mean for any member the total of his
40 prior service plus his membership service.
- 41 (6a) 'District attorney' shall mean the district attorney or solicitor
42 provided for in G.S. 7A-60.

- (7) 'Filing' when used in reference to an application for retirement shall mean the receipt of an acceptable application on a form provided by the Retirement System.
- (8) 'Final compensation' shall mean for any member the annual equivalent of the rate of compensation most recently applicable to him.
- (9) 'Judge' shall mean any justice or judge of the General Court of Justice and the administrative officer of the courts.
- (10) 'Medical board' shall mean the board of physicians provided for in G.S. 135-6.
- (11) 'Member' shall mean any person included in the membership of the Retirement System as provided in this Article.
- (12) 'Membership service' shall mean service as a judge, district attorney, ~~or~~ clerk of superior ~~court~~ court, or public defender rendered while a member of the Retirement System.
- (13) 'Previous system' shall mean, with respect to any member, the retirement benefit provisions of Article 6 and Article 8 of Chapter 7A of the General Statutes, to the extent that such Article or Articles were formerly applicable to the member, and in the case of judges of the district court division, ~~and~~ district attorney, public defender, and clerk of superior court of the General Court of Justice, the Teachers' and State Employees' Retirement System.
- (14) 'Prior service' shall mean service rendered by a member, prior to his membership in the Retirement System, for which credit is allowable under G.S. 135-56.
- (14a) 'Public defender' means the public defender provided for in G.S. 7A-465 and the appellate defender provided for in G.S. 7A-486.
- (15) 'Regular interest' shall mean interest compounded annually at such a rate as shall be determined by the Board of Trustees in accordance with G.S. 135-7(b).
- (16) 'Retirement' shall mean the withdrawal from active service with a retirement allowance granted under the provisions of this Chapter. In order for a member's retirement to become effective in any month, the member must render no service at any time during that month.
- (17) 'Retirement allowance' shall mean the periodic payments to which a beneficiary becomes entitled under the provisions of this Article.
- (18) 'Retirement System' shall mean the 'Consolidated Judicial Retirement System' of North Carolina, as established in this Article.
- (19) 'Year' as used in this Article shall mean the regular fiscal year beginning July 1 and ending June 30 in the following calendar year, unless otherwise defined by regulation of the Board of Trustees."

Section 4. G.S. 135-54 reads as rewritten:

"§ 135-54. Name and date of establishment.

A Retirement System is hereby established and placed under the management of the Board of Trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Article for justices and judges, district attorneys, public defenders, and clerks of superior court of the General Court of Justice of North Carolina, and their survivors. The Retirement System so created shall be established as of January 1, 1974.

The Retirement System shall have the power and privileges of a corporation and shall be known as the 'Consolidated Judicial Retirement System of North Carolina,' and by such name all of its business shall be transacted."

Section 5. G.S. 135-55 reads as rewritten:

"§ 135-55. Membership.

(a) The membership of the Retirement System shall consist of:

(1) All judges and district attorneys in office on January 1, 1974;

(2) All persons who become judges and district attorneys or reenter service as judges and district attorneys after January 1, 1974;

(3) All clerks of superior court in office on January 1, 1975; ~~and~~

(4) All persons who become clerks of superior court or reenter service as clerks of superior court after January 1, ~~1975~~ 1975;

(5) All public defenders in office on July 1, 1997; and

(6) All persons who become public defenders or reenter service as public defenders after July 1, 1997.

(b) The membership of any person in the Retirement System shall cease upon:

(1) The withdrawal of his accumulated contributions after he is no longer a judge, district ~~attorney~~ attorney, public defender, or clerk of superior court, or

(2) His retirement under the provisions of the Retirement System, or

(3) His death."

Section 6. G.S. 135-56(a) reads as rewritten:

"(a) Subject to such rules and regulations as the Board of Trustees shall adopt with regard to the verification of a judge's prior service, the prior service of a judge shall consist of his service rendered prior to January 1, 1974, as a justice of the Supreme Court, judge of the Court of Appeals, judge of the superior court, judge of the district court division of the General Court of Justice, as administrative officer of the courts, ~~or~~ as a solicitor or district ~~attorney~~ attorney, or as a public defender."

Section 7. G.S. 135-56 is amended by adding a new subsection to read:

"(f) On and after July 1, 1997, the creditable service of a member who was a public defender and a member of the Teachers' and State Employees' Retirement System at the time of transfer of membership from the previous system to this System shall include service as a public defender that was creditable in the previous system immediately prior to July 1, 1997. The accumulated contributions of a member as a public defender shall be transferred from the previous system to this System in the

1 same manner as prescribed under G.S. 135-28.1 as it pertained to judges of the
2 district court division of the General Court of Justice."

3 Section 8. G.S. 135-58(a1) reads as rewritten:

4 "(a1) Any member who retires under the provisions of subsection (a) or
5 subsection (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1997, after he
6 either has attained his 65th birthday or has completed 24 years or more of creditable
7 service shall receive an annual retirement allowance, payable monthly, which shall
8 commence on the effective date of his retirement and shall be continued on the first
9 day of each month thereafter during his lifetime, the amount of which shall be
10 computed as the sum of (1), (2), and (3) following, provided that in no event shall the
11 annual allowance payable to any member be greater than an amount which, when
12 added to the allowance, if any, to which he is entitled under the Teachers' and State
13 Employees' Retirement System, the Legislative Retirement System or the North
14 Carolina Local Governmental Employees' Retirement System (prior in any case to
15 any reduction for early retirement or for an optional mode of payment) would total
16 three-fourths of his final compensation:

17 (1) Four and two-hundredths percent (4.02%) of his final
18 compensation, multiplied by the number of years of his creditable
19 service rendered as a justice of the Supreme Court or judge of the
20 Court of Appeals;

21 (2) Three and fifty-two hundredths percent (3.52%) of his final
22 compensation, multiplied by the number of years of his creditable
23 service rendered as a judge of the superior court or as
24 administrative officer of the courts;

25 (3) Three and two-hundredths percent (3.02%) of his final
26 compensation, multiplied by the number of years of his creditable
27 service rendered as a judge of the district court, district attorney,
28 or clerk of superior court."

29 Section 9. G.S. 135-58 is amended by adding a new subsection to read:

30 "(a2) Any member who retires under the provisions of subsection (a) or
31 subsection (c) of G.S. 135-57 on or after July 1, 1997, after he either has attained his
32 65th birthday or has completed 24 years or more of creditable service shall receive an
33 annual retirement allowance, payable monthly, which shall commence on the
34 effective date of his retirement and shall be continued on the first day of each month
35 thereafter during his lifetime, the amount of which shall be computed as the sum of
36 (1), (2), and (3) following, provided that in no event shall the annual allowance
37 payable to any member be greater than an amount which, when added to the
38 allowance, if any, to which he is entitled under the Teachers' and State Employees'
39 Retirement System, the Legislative Retirement System, or the North Carolina Local
40 Governmental Employees' Retirement System (prior in any case to any reduction for
41 early retirement or for an optional mode of payment) would total three-fourths of his
42 final compensation:

43 (1) Four and two-hundredths percent (4.02%) of his final
44 compensation, multiplied by the number of years of his creditable

1 service rendered as a justice of the Supreme Court or judge of the
2 Court of Appeals;

3 (2) Three and fifty-two hundredths percent (3.52%) of his final
4 compensation, multiplied by the number of years of his creditable
5 service rendered as a judge of the superior court or as
6 administrative officer of the courts;

7 (3) Three and two-hundredths percent (3.02%) of his final
8 compensation, multiplied by the number of years of his creditable
9 service rendered as a judge of the district court, district attorney,
10 clerk of superior court, or public defender."

11 Section 10. G.S. 135-56 is amended by adding a new subsection to read:

12 "(c) On and after July 1, 1997, the creditable service of a public defender of a
13 member who was a member of the Teachers' and State Employees' Retirement
14 System on June 30, 1997, and whose accumulated contributions are transferred from
15 that System to this System, includes service that was creditable in the Teachers' and
16 State Employees' Retirement System, and membership service with that System is
17 membership service with this System."

18 Section 11. This act becomes effective July 1, 1997.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1183*

Short Title: Fayetteville Public Works Retirement.

(Local)

Sponsors: Senator Rand.

Referred to: Pensions & Retirement and Insurance.

May 20, 1998

1 A BILL TO BE ENTITLED

2 AN ACT TO ALLOW THE PUBLIC WORKS COMMISSION OF THE CITY OF
3 FAYETTEVILLE TO PARTICIPATE IN THE LOCAL GOVERNMENTAL
4 EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 Section 1. Notwithstanding any provisions of Article 3 of Chapter 128 of
7 the General Statutes and of Section 6.20 of the Charter of the City of Fayetteville, as
8 set forth in Section 1 of Chapter 557 of the 1979 Session Laws, the Public Works
9 Commission of the City of Fayetteville, as described and continued by Section 6.1 of
10 the Charter of the City of Fayetteville as set forth in Section 1 of Chapter 557 of the
11 1979 Session Laws, as amended by Section 2 of Chapter 756 of the 1981 Session
12 Laws, shall be deemed to be an "employer" within the meaning of G.S. 128-21(11),
13 and shall be eligible to participate in the North Carolina Local Governmental
14 Employees' Retirement System.

15 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1180

Short Title: Fire and Rescue Squad Pensions.

(Public)

Sponsors: Senators Warren; Albertson, Dalton, Odom, Phillips, Plyler, Shaw of
Cumberland, Weinstein, and Wellons.

Referred to: Pensions & Retirement and Insurance.

May 20, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO INCLUDE COUNTY FIRE MARSHALS IN THE FIREMEN'S AND
3 RESCUE SQUAD WORKERS' PENSION FUND AND TO INCREASE THE
4 MONTHLY PENSION FOR MEMBERS OF THE FIREMEN'S AND RESCUE
5 SQUAD WORKERS' PENSION FUND.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 58-86-25 reads as rewritten:
8 "§ 58-86-25. 'Eligible firemen' defined; determination and certification of volunteers
9 meeting qualifications.
10 'Eligible firemen' shall mean all firemen of the State of North Carolina or any
11 political subdivision thereof, including those performing such functions in the
12 protection of life and property through fire fighting within a county or city
13 governmental unit and so certified to the Commissioner of Insurance by the
14 governing body thereof, and who belong to a bona fide fire department which, as
15 determined by the Commissioner, is classified as not less than class '9' or class 'A'
16 and 'AA' departments in accordance with rating methods, schedules, classifications,
17 underwriting rules, bylaws or regulations effective or applied with respect to the
18 establishment of rates or premiums used or charged pursuant to Articles 36 or 40 of
19 this Chapter or by such other reasonable methods as the Commissioner may
20 determine, and which operates fire apparatus and equipment of the value of five
21 thousand dollars (\$5,000) or more, and said fire department holds drills and meetings
22 not less than four hours monthly and said firemen attend at least 36 hours of all drills
23 and meetings in each calendar year. 'Eligible firemen' shall also mean the fire

1 marshal of each county, provided the board of county commissioners of that county
2 certifies the fire marshal's attendance at no less than 36 hours of all drills and
3 meetings in each calendar year. 'Eligible firemen' shall also mean those persons
4 meeting the other qualifications of this section, not exceeding 25 volunteer firemen
5 plus one additional volunteer fireman per 100 population in the area served by their
6 respective departments. Each department shall annually determine and report the
7 names of those firemen meeting the eligibility qualifications to its respective
8 governing body, which upon determination of the validity and accuracy of the
9 qualification shall promptly certify the list to the board. For the purposes of the
10 preceding sentence, the governing body of a fire department operated: by a county is
11 the county board of commissioners; by a city is the city council; by a sanitary district
12 is the sanitary district board; by a corporation, whether profit or nonprofit, is the
13 corporation's board of directors; and by any other entity is that group designated by
14 the board."

15 Section 2. G.S. 58-86-55 reads as rewritten:

16 "**§ 58-86-55. Monthly pensions upon retirement.**

17 Any member who has served 20 years as an 'eligible fireman' or 'eligible rescue
18 squad worker' in the State of North Carolina, as provided in G.S. 58-86-25 and G.S.
19 58-86-30, and who has attained the age of 55 years is entitled to be paid a monthly
20 pension from this fund. The monthly pension shall be in the amount of ~~one hundred~~
21 ~~forty-one dollars (\$141.00)~~ one hundred forty-six dollars (\$146.00) per month. Any
22 retired fireman receiving a pension shall, effective July 1, 1997, receive a pension of
23 ~~one hundred forty-one dollars (\$141.00)~~ one hundred forty-six dollars (\$146.00) per
24 month.

25 Members shall pay ten dollars (\$10.00) per month as required by G.S. 58-86-35
26 and G.S. 58-86-40 for a period of no longer than 20 years. No 'eligible rescue squad
27 member' shall receive a pension prior to July 1, 1983. No member shall be entitled to
28 a pension hereunder until the member's official duties as a fireman or rescue squad
29 worker for which the member is paid compensation shall have been terminated and
30 the member shall have retired as such according to standards or rules fixed by the
31 board of trustees.

32 A member who is totally and permanently disabled while in the discharge of the
33 member's official duties as a result of bodily injuries sustained or as a result of
34 extreme exercise or extreme activity experienced in the course and scope of those
35 official duties and who leaves the fire or rescue squad service because of this
36 disability shall be entitled to be paid from the fund a monthly benefit in an amount
37 of ~~one hundred forty-one dollars (\$141.00)~~ one hundred forty-six dollars (\$146.00)
38 per month beginning the first month after the member's fifty-fifth birthday. All
39 applications for disability are subject to the approval of the board who may appoint
40 physicians to examine and evaluate the disabled member prior to approval of the
41 application, and annually thereafter. Any disabled member shall not be required to
42 make the monthly payment of ten dollars (\$10.00) as required by G.S. 58-86-35 and
43 G.S. 58-86-40.

1 A member who is totally and permanently disabled for any cause, other than line
2 of duty, who leaves the fire or rescue squad service because of this disability and who
3 has at least 10 years of service with the pension fund, may be permitted to continue
4 making a monthly contribution of ten dollars (\$10.00) to the fund until the member
5 has made contributions for a total of 240 months. The member shall upon attaining
6 the age of 55 years be entitled to receive a pension as provided by this section. All
7 applications for disability are subject to the approval of the board who may appoint
8 physicians to examine and evaluate the disabled member prior to approval of the
9 application and annually thereafter.

10 A member who, because his residence is annexed by a city under Part 2 or Part 3
11 of Article 4 of Chapter 160A of the General Statutes, or whose department is closed
12 because of an annexation by a city under Part 2 or Part 3 of Article 4 of Chapter
13 160A of the General Statutes, and because of such annexation is unable to perform as
14 a fireman of any status, and if the member has at least 10 years of service with the
15 pension fund, may be permitted to continue making a monthly contribution of ten
16 dollars (\$10.00) to the fund until the member has made contributions for a total of
17 240 months. The member upon attaining the age of 55 years and completion of such
18 contributions shall be entitled to receive a pension as provided by this section. Any
19 application to make monthly contributions under this section shall be subject to a
20 finding of eligibility by the Board of Trustees upon application of the member.

21 The pensions provided shall be in addition to all other pensions or benefits under
22 any other statutes of the State of North Carolina or the United States,
23 notwithstanding any exclusionary provisions of other pensions or retirement systems
24 provided by law."

25 Section 3. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1407

Short Title: Reg. of Deeds Supp. Pension Change.

(Public)

Sponsors: Senator Carpenter.

Referred to: Pensions & Retirement and Insurance.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE BENEFITS UNDER THE REGISTERS OF DEEDS'
3 SUPPLEMENTAL PENSION FUND ACT TO REGISTERS OF DEEDS WHO
4 ARE OTHERWISE NOT ELIGIBLE SOLELY BECAUSE THE COUNTY DOES
5 NOT PARTICIPATE IN THE LOCAL GOVERNMENTAL EMPLOYEES'
6 RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 161-50.4 reads as rewritten:

9 "§ 161-50.4. Eligibility.

10 (a) Each county register of deeds who has retired with at least 12 years eligible
11 service as register of deeds from the Local Governmental Employees' Retirement
12 System or an equivalent locally sponsored plan before June 30, 1988, and those who
13 retire on or after June 30, 1988, but before July 1, 1991, and who have completed at
14 least 12 years of eligible service as register of deeds is entitled to receive a monthly
15 pension under this Article, beginning July 1, 1988. Effective July 1, 1991, each county
16 register of deeds who retires with at least 10 years of eligible service as register of
17 deeds is entitled to receive a monthly pension under this Article.

18 (a1) Notwithstanding the provisions of subsection (a) of this section, effective
19 January 1, 1996, any county register of deeds who separates from service as register of
20 deeds after completing at least 10 years of eligible service as register of deeds, but
21 who does not commence retirement with the Local Governmental Employees'
22 Retirement System, shall have the right to receive a monthly pension under this
23 Article payable upon retirement with the Local Governmental Employees'
24 Retirement System.

1 (a2) Each county register of deeds who is not eligible to retire with the Local
2 Governmental Employees' Retirement System solely because the county has not
3 elected to participate as an employer with the Local Governmental Employees'
4 Retirement System and who has either (i) attained the age of 65, (ii) attained 30 years
5 of creditable service regardless of age, or (iii) attained the age of 60 with not less than
6 25 years of creditable service, and who has completed at least 10 years of creditable
7 service as a register of deeds is entitled to receive a monthly pension under this
8 Article, provided that register of deeds is not eligible to receive any retirement
9 benefits from any State or locally sponsored plan.

10 (b) Each eligible retired register of deeds as defined in subsection ~~(a)~~ or ~~(a1)~~ (a),
11 ~~(a1), or (a2)~~ of this section relating to service and retirement status on January 1 of
12 each calendar year shall be entitled to receive a monthly pension under this Article
13 beginning with the month of January of the same calendar year."

14 Section 2. G.S. 161-50.5 is amended by adding a new subsection to read:

15 "(a1) A register of deeds eligible under G.S. 161-50.4 (a2) shall be entitled to
16 receive an annual pension benefit, payable in equal monthly installments as
17 determined under the provisions of subsection (a) of this section, but reduced by an
18 amount equal to the benefit that would be payable from the Local Governmental
19 Employees' Retirement System if the register of deeds had been a member of the
20 Local Governmental Employees' Retirement System and all of the years of local
21 service were creditable to that System."

22 Section 3. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1465

Short Title: Modify Election of Optional Allowance.

(Public)

Sponsors: Senators Jenkins; Ballance, Cooper, Kinnaird, Lucas, Martin of Pitt, Miller, Odom, Rand, Reeves, Shaw of Cumberland, Weinstein, and Wellons.

Referred to: Pensions & Retirement and Insurance.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW MEMBERS OF THE LEGISLATIVE, LOCAL
3 GOVERNMENTAL EMPLOYEES', AND TEACHERS' AND STATE
4 EMPLOYEES' RETIREMENT SYSTEMS TO CHANGE THEIR DESIGNATED
5 BENEFICIARIES AFTER RETIREMENT HAS BECOME EFFECTIVE UNDER
6 CERTAIN CIRCUMSTANCES.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 120-4.26 reads as rewritten:
9 "§ 120-4.26. Benefit payment options.
10 Any member may elect to receive his benefits in a retirement allowance payable
11 throughout life, or he may elect to receive the actuarial equivalent of the retirement
12 allowance in a reduced allowance payable throughout life under the provisions of one
13 of the options set forth below. No election may be made after the first payment
14 becomes due, or the first retirement check cashed, nor may an election be revoked or
15 a nomination changed. The election of Option 2 or Option 3 or the nomination of
16 the person thereunder shall be revoked if the person nominated dies prior to the date
17 the first payment becomes normally due or until the first retirement check has been
18 cashed. The election may be revoked by the member prior to the date the first
19 payment becomes normally due or until his first retirement check has been cashed.
20 Provided, however, in the event a member has elected Option 2 or Option 3 and
21 nominated his or her spouse to receive a retirement allowance upon the member's
22 death, and the spouse predeceases the member after the first payment becomes

1 normally due or the first retirement check has been cashed, if the member remarries
2 he or she may nominate a new spouse to receive the retirement allowance under the
3 previously elected option, within 90 days of the remarriage. The new nomination
4 shall be effective on the first day of the month in which it is made and shall provide
5 for a retirement allowance computed to be the actuarial equivalent of the retirement
6 allowance in effect immediately prior to the effective date of the new nomination.
7 ~~Provided, however, any~~ Any member having elected Options 2 or 3 and nominated
8 his or her spouse to receive a retirement allowance upon the member's death may,
9 after divorce from his or her spouse, revoke the nomination and elect a new option,
10 effective on the first day of the month in which the new option is elected, providing
11 for a retirement allowance computed to be the actuarial equivalent to the retirement
12 allowance in effect immediately prior to the effective date of the new option.

13 Option 1. For Members Retiring Prior to July 1, 1993. -- If a member dies within
14 10 years from his retirement date, an amount equal to his accumulated contributions
15 at retirement, less one-one hundred twentieth (1/120) for each month for which he
16 has received a retirement allowance payment, shall be paid to his legal representative
17 or to the person he nominates by written designation acknowledged and filed with
18 the Board of Trustees;

19 Option 2. -- Upon his death, his reduced retirement allowance shall be continued
20 throughout the life of and paid to the person he nominates by written designation
21 duly acknowledged and filed with the Board of Trustees at the time of his retirement.
22 If the person selected is other than his spouse, the reduced retirement allowance
23 payable to the member shall not be less than one half of the retirement allowance
24 without optional modification which would otherwise be payable to him; or

25 Option 3. -- Upon his death, one half of his reduced retirement allowance shall be
26 continued throughout the life of and paid to the person he nominates by written
27 designation duly acknowledged and filed with the Board of Trustees at the time of his
28 retirement."

29 Section 2. G.S. 128-27(g) reads as rewritten:

30 "(g) Election of Optional Allowance. -- With the provision that until the first
31 payment on account of any benefit becomes normally due, or his first retirement
32 check has been cashed, any member may elect to receive his benefits in a retirement
33 allowance payable throughout life, or he may elect to receive the actuarial equivalent
34 of such retirement allowance in a reduced allowance payable throughout life under
35 the provisions of one of the Options set forth below. The election of Option two or
36 Option three or nomination of the person thereunder shall be revoked if such person
37 nominated dies prior to the date the first payment becomes normally due or the first
38 retirement check has been cashed. Such election may be revoked by the member
39 prior to the date the first payment becomes normally due or his first retirement check
40 has been cashed. Provided, however, in the event a member has elected Option 2 or
41 Option 3 and nominated his or her spouse to receive a retirement allowance upon
42 the member's death, and the spouse predeceases the member after the first payment
43 becomes normally due or the first retirement check has been cashed, if the member
44 remarries he or she may nominate a new spouse to receive the retirement allowance

1 under the previously elected option, within 90 days of the remarriage. The new
2 nomination shall be effective on the first day of the month in which it is made and
3 shall provide for a retirement allowance computed to be the actuarial equivalent of
4 the retirement allowance in effect immediately prior to the effective date of the new
5 nomination. ~~Provided, however, any~~ Any member having elected Options two, three,
6 or six and nominated his or her spouse to receive a retirement allowance upon the
7 member's death may, after divorce from his or her spouse, revoke the nomination
8 and elect a new option, effective on the first day of the month in which the new
9 option is elected, providing for a retirement allowance computed to be the actuarial
10 equivalent of the retirement allowance in effect immediately prior to the effective
11 date of the new option.

12 Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. -- If
13 he dies before he has received in annuity payments the present
14 value of his annuity as it was at the time of his retirement, the
15 balance shall be paid to such person as he shall nominate by
16 written designation duly acknowledged and filed with the Board of
17 Trustees or, if none, to his legal representative.

18 (b) In the Case of a Member Who Retires on or after July 1, 1965, but
19 prior to July 1, 1993. -- If he dies within 10 years from his
20 retirement date, an amount equal to his accumulated contributions
21 at retirement, less one one-hundred-twentieth thereof for each
22 month for which he has received a retirement allowance payment,
23 shall be paid to such person as he shall nominate by written
24 designation duly acknowledged and filed with the Board of
25 Trustees or, if none, to his legal representative; or

26 Option two. Upon his death his reduced retirement allowance shall be continued
27 throughout the life of and paid to such person as he shall nominate by written
28 designation duly acknowledged and filed with the Board of Trustees at the time of his
29 retirement, provided that if the person selected is other than his spouse the reduced
30 retirement allowance payable to the member shall not be less than one half of the
31 retirement allowance without optional modification which would otherwise be
32 payable to him; or

33 Option three. Upon his death, one half of his reduced retirement allowance shall
34 be continued throughout the life of, and paid to such person as he shall nominate by
35 written designation duly acknowledged and filed with the Board of Trustees at the
36 time of his retirement; or

37 Option four. Adjustment of Retirement Allowance for Social Security Benefits. --
38 Until the first payment on account of any benefit becomes normally due, any member
39 may elect to convert his benefit otherwise payable on his account after retirement
40 into a retirement allowance of equivalent actuarial value of such amount that with his
41 benefit under Table II of the Federal Social Security Act, he will receive, so far as
42 possible, approximately the same amount per year before and after the earliest age at
43 which he becomes eligible, upon application therefor, to receive a social security
44 benefit.

1 Option five. For Members Retiring prior to July 1, 1993. -- The member may elect
2 to receive a reduced retirement allowance under the conditions of Option two or
3 Option three, as provided for above, with the modification that if both he and the
4 person nominated die within 10 years from his retirement date, an amount equal to
5 his accumulated contributions at retirement, less 1/120th thereof for each month for
6 which a retirement allowance has been paid, shall be paid to his legal representatives
7 or to such person as he shall nominate by written designation duly acknowledged and
8 filed with the Board of Trustees.

9 Option six. A member may elect either Option two or Option three with the
10 added provision that in the event the designated beneficiary predeceases the member,
11 the retirement allowance payable to the member after the designated beneficiary's
12 death shall be equal to the retirement allowance which would have been payable had
13 the member not elected the option."

14 Section 3. G.S. 135-5(g) reads as rewritten:

15 "(g) Election of Optional Allowance. -- With the provision that until the first
16 payment on account of any benefit becomes normally due, or his first retirement
17 check has been cashed, any member may elect to receive his benefits in a retirement
18 allowance payable throughout life, or he may elect to receive the actuarial equivalent
19 of such retirement allowance in a reduced allowance payable throughout life under
20 the provisions of one of the options set forth below. The election of Option 2 or
21 Option 3 or nomination of the person thereunder shall be revoked if such person
22 nominated dies prior to the date the first payment becomes normally due or until the
23 first retirement check has been cashed. Such election may be revoked by the member
24 prior to the date the first payment becomes normally due or until his first retirement
25 check has been cashed. Provided, however, in the event a member has elected Option
26 2 or Option 3 and nominated his or her spouse to receive a retirement allowance
27 upon the member's death, and the spouse predeceases the member after the first
28 payment becomes normally due or the first retirement check has been cashed, if the
29 member remarries he or she may nominate a new spouse to receive the retirement
30 allowance under the previously elected option, within 90 days of the remarriage. The
31 new nomination shall be effective on the first day of the month in which it is made
32 and shall provide for a retirement allowance computed to be the actuarial equivalent
33 of the retirement allowance in effect immediately prior to the effective date of the
34 new nomination. ~~Provided, however, any~~ Any member having elected Options 2, 3,
35 or 6 and nominated his or her spouse to receive a retirement allowance upon the
36 member's death may, after divorce from his or her spouse, revoke the nomination
37 and elect a new option, effective on the first day of the month in which the new
38 option is elected, providing for a retirement allowance computed to be the actuarial
39 equivalent of the retirement allowance in effect immediately prior to the effective
40 date of the new option.

41 Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. -- If he
42 dies before he has received in annuity payments the present value
43 of his annuity as it was at the time of his retirement, the balance
44 shall be paid to his legal representatives or to such person as he

shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

- (b) In the Case of a Member Who Retires on or after July 1, 1963, but prior to July 1, 1993. -- If he dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which he has received a retirement allowance payment, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees; or

Option 2. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement, provided that if the person selected is other than his spouse the reduced retirement allowance payable to the member shall not be less than one half of the retirement allowance without optional modification which would otherwise be payable to him; or

Option 3. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees at the time of his retirement; or

Option 4. Adjustment of Retirement Allowance for Social Security Benefits. -- Until the first payment on account of any benefit becomes normally due, any member may elect to convert his benefit otherwise payable on his account after retirement into a retirement allowance of equivalent actuarial value of such amount that with his benefit under Title II of the Federal Social Security Act, he will receive, so far as possible, approximately the same amount per year before and after the earliest age at which he becomes eligible, upon application therefor, to receive a social security benefit.

Option 5. For Members Retiring Prior to July 1, 1993. -- The member may elect to receive a reduced retirement allowance under the conditions of Option 2 or Option 3, as provided for above, with the modification that if both he and the person nominated die within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month for which a retirement allowance has been paid, shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the Board of Trustees.

Option 6. A member may elect either Option 2 or Option 3 with the added provision that in the event the designated beneficiary predeceases the member, the retirement allowance payable to the member after the designated beneficiary's death shall be equal to the retirement allowance which would have been payable had the member not elected the option."

Section 4. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1465

Short Title: Modify Election of Optional Allowance.

(Public)

Sponsors: Senators Jenkins; Ballance, Cooper, Kinnaird, Lucas, Martin of Pitt, Miller, Odom, Rand, Reeves, Shaw of Cumberland, Weinstein, and Wellons.

Referred to: Pensions & Retirement and Insurance.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW MEMBERS OF THE LEGISLATIVE, LOCAL
3 GOVERNMENTAL EMPLOYEES', AND TEACHERS' AND STATE
4 EMPLOYEES' RETIREMENT SYSTEMS TO CHANGE THEIR DESIGNATED
5 BENEFICIARIES AFTER RETIREMENT HAS BECOME EFFECTIVE UNDER
6 CERTAIN CIRCUMSTANCES.
7 The General Assembly of North Carolina enacts:
8 Section 1. G.S. 120-4.26 reads as rewritten:
9 "§ 120-4.26. Benefit payment options.
10 Any member may elect to receive his benefits in a retirement allowance payable
11 throughout life, or he may elect to receive the actuarial equivalent of the retirement
12 allowance in a reduced allowance payable throughout life under the provisions of one
13 of the options set forth below. No election may be made after the first payment
14 becomes due, or the first retirement check cashed, nor may an election be revoked or
15 a nomination changed. The election of Option 2 or Option 3 or the nomination of
16 the person thereunder shall be revoked if the person nominated dies prior to the date
17 the first payment becomes normally due or until the first retirement check has been
18 cashed. The election may be revoked by the member prior to the date the first
19 payment becomes normally due or until his first retirement check has been cashed.
20 Provided, however, in the event a member has elected Option 2 or Option 3 and
21 nominated his or her spouse to receive a retirement allowance upon the member's
22 death, and the spouse predeceases the member after the first payment becomes

1 normally due or the first retirement check has been cashed, if the member remarries
2 he or she may nominate a new spouse to receive the retirement allowance under the
3 previously elected option, within 90 days of the remarriage. The new nomination
4 shall be effective on the first day of the month in which it is made and shall provide
5 for a retirement allowance computed to be the actuarial equivalent of the retirement
6 allowance in effect immediately prior to the effective date of the new nomination.
7 ~~Provided, however, any~~ Any member having elected Options 2 or 3 and nominated
8 his or her spouse to receive a retirement allowance upon the member's death may,
9 after divorce from his or her spouse, revoke the nomination and elect a new option,
10 effective on the first day of the month in which the new option is elected, providing
11 for a retirement allowance computed to be the actuarial equivalent to the retirement
12 allowance in effect immediately prior to the effective date of the new option.

13 Option 1. For Members Retiring Prior to July 1, 1993. -- If a member dies within
14 10 years from his retirement date, an amount equal to his accumulated contributions
15 at retirement, less one-one hundred twentieth (1/120) for each month for which he
16 has received a retirement allowance payment, shall be paid to his legal representative
17 or to the person he nominates by written designation acknowledged and filed with
18 the Board of Trustees;

19 Option 2. -- Upon his death, his reduced retirement allowance shall be continued
20 throughout the life of and paid to the person he nominates by written designation
21 duly acknowledged and filed with the Board of Trustees at the time of his retirement.
22 If the person selected is other than his spouse, the reduced retirement allowance
23 payable to the member shall not be less than one half of the retirement allowance
24 without optional modification which would otherwise be payable to him; or

25 Option 3. -- Upon his death, one half of his reduced retirement allowance shall be
26 continued throughout the life of and paid to the person he nominates by written
27 designation duly acknowledged and filed with the Board of Trustees at the time of his
28 retirement."

29 Section 2. G.S. 128-27(g) reads as rewritten:

30 "(g) Election of Optional Allowance. -- With the provision that until the first
31 payment on account of any benefit becomes normally due, or his first retirement
32 check has been cashed, any member may elect to receive his benefits in a retirement
33 allowance payable throughout life, or he may elect to receive the actuarial equivalent
34 of such retirement allowance in a reduced allowance payable throughout life under
35 the provisions of one of the Options set forth below. The election of Option two or
36 Option three or nomination of the person thereunder shall be revoked if such person
37 nominated dies prior to the date the first payment becomes normally due or the first
38 retirement check has been cashed. Such election may be revoked by the member
39 prior to the date the first payment becomes normally due or his first retirement check
40 has been cashed. Provided, however, in the event a member has elected Option 2 or
41 Option 3 and nominated his or her spouse to receive a retirement allowance upon
42 the member's death, and the spouse predeceases the member after the first payment
43 becomes normally due or the first retirement check has been cashed, if the member
44 remarries he or she may nominate a new spouse to receive the retirement allowance

1 under the previously elected option, within 90 days of the remarriage. The new
2 nomination shall be effective on the first day of the month in which it is made and
3 shall provide for a retirement allowance computed to be the actuarial equivalent of
4 the retirement allowance in effect immediately prior to the effective date of the new
5 nomination. Provided, however, any Any member having elected Options two, three,
6 or six and nominated his or her spouse to receive a retirement allowance upon the
7 member's death may, after divorce from his or her spouse, revoke the nomination
8 and elect a new option, effective on the first day of the month in which the new
9 option is elected, providing for a retirement allowance computed to be the actuarial
10 equivalent of the retirement allowance in effect immediately prior to the effective
11 date of the new option.

12 Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965. -- If
13 he dies before he has received in annuity payments the present
14 value of his annuity as it was at the time of his retirement, the
15 balance shall be paid to such person as he shall nominate by
16 written designation duly acknowledged and filed with the Board of
17 Trustees or, if none, to his legal representative.

18 (b) In the Case of a Member Who Retires on or after July 1, 1965, but
19 prior to July 1, 1993. -- If he dies within 10 years from his
20 retirement date, an amount equal to his accumulated contributions
21 at retirement, less one one-hundred-twentieth thereof for each
22 month for which he has received a retirement allowance payment,
23 shall be paid to such person as he shall nominate by written
24 designation duly acknowledged and filed with the Board of
25 Trustees or, if none, to his legal representative; or

26 Option two. Upon his death his reduced retirement allowance shall be continued
27 throughout the life of and paid to such person as he shall nominate by written
28 designation duly acknowledged and filed with the Board of Trustees at the time of his
29 retirement, provided that if the person selected is other than his spouse the reduced
30 retirement allowance payable to the member shall not be less than one half of the
31 retirement allowance without optional modification which would otherwise be
32 payable to him; or

33 Option three. Upon his death, one half of his reduced retirement allowance shall
34 be continued throughout the life of, and paid to such person as he shall nominate by
35 written designation duly acknowledged and filed with the Board of Trustees at the
36 time of his retirement; or

37 Option four. Adjustment of Retirement Allowance for Social Security Benefits. --
38 Until the first payment on account of any benefit becomes normally due, any member
39 may elect to convert his benefit otherwise payable on his account after retirement
40 into a retirement allowance of equivalent actuarial value of such amount that with his
41 benefit under Table II of the Federal Social Security Act, he will receive, so far as
42 possible, approximately the same amount per year before and after the earliest age at
43 which he becomes eligible, upon application therefor, to receive a social security
44 benefit.

1 Option five. For Members Retiring prior to July 1, 1993. -- The member may elect
2 to receive a reduced retirement allowance under the conditions of Option two or
3 Option three, as provided for above, with the modification that if both he and the
4 person nominated die within 10 years from his retirement date, an amount equal to
5 his accumulated contributions at retirement, less 1/120th thereof for each month for
6 which a retirement allowance has been paid, shall be paid to his legal representatives
7 or to such person as he shall nominate by written designation duly acknowledged and
8 filed with the Board of Trustees.

9 Option six. A member may elect either Option two or Option three with the
10 added provision that in the event the designated beneficiary predeceases the member,
11 the retirement allowance payable to the member after the designated beneficiary's
12 death shall be equal to the retirement allowance which would have been payable had
13 the member not elected the option."

14 Section 3. G.S. 135-5(g) reads as rewritten:

15 "(g) Election of Optional Allowance. -- With the provision that until the first
16 payment on account of any benefit becomes normally due, or his first retirement
17 check has been cashed, any member may elect to receive his benefits in a retirement
18 allowance payable throughout life, or he may elect to receive the actuarial equivalent
19 of such retirement allowance in a reduced allowance payable throughout life under
20 the provisions of one of the options set forth below. The election of Option 2 or
21 Option 3 or nomination of the person thereunder shall be revoked if such person
22 nominated dies prior to the date the first payment becomes normally due or until the
23 first retirement check has been cashed. Such election may be revoked by the member
24 prior to the date the first payment becomes normally due or until his first retirement
25 check has been cashed. Provided, however, in the event a member has elected Option
26 2 or Option 3 and nominated his or her spouse to receive a retirement allowance
27 upon the member's death, and the spouse predeceases the member after the first
28 payment becomes normally due or the first retirement check has been cashed, if the
29 member remarries he or she may nominate a new spouse to receive the retirement
30 allowance under the previously elected option, within 90 days of the remarriage. The
31 new nomination shall be effective on the first day of the month in which it is made
32 and shall provide for a retirement allowance computed to be the actuarial equivalent
33 of the retirement allowance in effect immediately prior to the effective date of the
34 new nomination. ~~Provided, however, any~~ Any member having elected Options 2, 3,
35 or 6 and nominated his or her spouse to receive a retirement allowance upon the
36 member's death may, after divorce from his or her spouse, revoke the nomination
37 and elect a new option, effective on the first day of the month in which the new
38 option is elected, providing for a retirement allowance computed to be the actuarial
39 equivalent of the retirement allowance in effect immediately prior to the effective
40 date of the new option.

41 Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. -- If he
42 dies before he has received in annuity payments the present value
43 of his annuity as it was at the time of his retirement, the balance
44 shall be paid to his legal representatives or to such person as he

1 shall nominate by written designation duly acknowledged and filed
2 with the Board of Trustees.

3 (b) In the Case of a Member Who Retires on or after July 1, 1963, but
4 prior to July 1, 1993. -- If he dies within 10 years from his
5 retirement date, an amount equal to his accumulated contributions
6 at retirement, less 1/120 thereof for each month for which he has
7 received a retirement allowance payment, shall be paid to his legal
8 representatives or to such person as he shall nominate by written
9 designation duly acknowledged and filed with the Board of
10 Trustees; or

11 Option 2. Upon his death his reduced retirement allowance shall be continued
12 throughout the life of and paid to such person as he shall nominate by written
13 designation duly acknowledged and filed with the Board of Trustees at the time of his
14 retirement, provided that if the person selected is other than his spouse the reduced
15 retirement allowance payable to the member shall not be less than one half of the
16 retirement allowance without optional modification which would otherwise be
17 payable to him; or

18 Option 3. Upon his death, one half of his reduced retirement allowance shall be
19 continued throughout the life of, and paid to such person as he shall nominate by
20 written designation duly acknowledged and filed with the Board of Trustees at the
21 time of his retirement; or

22 Option 4. Adjustment of Retirement Allowance for Social Security Benefits. --
23 Until the first payment on account of any benefit becomes normally due, any member
24 may elect to convert his benefit otherwise payable on his account after retirement
25 into a retirement allowance of equivalent actuarial value of such amount that with his
26 benefit under Title II of the Federal Social Security Act, he will receive, so far as
27 possible, approximately the same amount per year before and after the earliest age at
28 which he becomes eligible, upon application therefor, to receive a social security
29 benefit.

30 Option 5. For Members Retiring Prior to July 1, 1993. -- The member may elect to
31 receive a reduced retirement allowance under the conditions of Option 2 or Option
32 3, as provided for above, with the modification that if both he and the person
33 nominated die within 10 years from his retirement date, an amount equal to his
34 accumulated contributions at retirement, less 1/120 thereof for each month for which
35 a retirement allowance has been paid, shall be paid to his legal representatives or to
36 such person as he shall nominate by written designation duly acknowledged and filed
37 with the Board of Trustees.

38 Option 6. A member may elect either Option 2 or Option 3 with the added
39 provision that in the event the designated beneficiary predeceases the member, the
40 retirement allowance payable to the member after the designated beneficiary's death
41 shall be equal to the retirement allowance which would have been payable had the
42 member not elected the option."

43 Section 4. This act is effective when it becomes law.



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 1465

AMENDMENT NO. _____
(to be filled in by
Principal Clerk)
Page 1 of ____

S1465-ASM-001

Date 6 - 17, 1998

Comm. Sub. ☐
Amends Title ☐
First Edition

Sponsor's Name

1 moves to amend the bill on page 5, line 43,
2 by rewriting the section to read:
3 Section 4. This act is effective when it becomes law and
4 its provisions shall apply to all persons who are retired from the
5 Legislative Retirement System, the Local Governmental Employees'
6 Retirement System, or the Teachers' and State Employees' Retirement
7 System on that date or who retire from any of those retirement
8 systems after that date. In the case of retired members who
9 designated a spouse as survivor under one of the options specified
10 in this act, whose designated spouses predeceased them, and who
11 remarried prior to the effective date of this act, such members may
12 nominate the new spouse to receive the survivor retirement benefits
13 in accordance with this act, provided that such nomination is made
14 within 90 days of the effective date of this act.

SIGNED [Signature]
Amendment Sponsor

SIGNED [Signature]
Committee Chair if Senate Committee Amendment

ADOPTED ✓ FAILED _____ TABLED _____

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1183*

Short Title: Fayetteville Public Works Retirement.

(Local)

Sponsors: Senator Rand.

Referred to: Pensions & Retirement and Insurance.

May 20, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE PUBLIC WORKS COMMISSION OF THE CITY OF
3 FAYETTEVILLE TO PARTICIPATE IN THE LOCAL GOVERNMENTAL
4 EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 Section 1. Notwithstanding any provisions of Article 3 of Chapter 128 of
7 the General Statutes and of Section 6.20 of the Charter of the City of Fayetteville, as
8 set forth in Section 1 of Chapter 557 of the 1979 Session Laws, the Public Works
9 Commission of the City of Fayetteville, as described and continued by Section 6.1 of
10 the Charter of the City of Fayetteville as set forth in Section 1 of Chapter 557 of the
11 1979 Session Laws, as amended by Section 2 of Chapter 756 of the 1981 Session
12 Laws, shall be deemed to be an "employer" within the meaning of G.S. 128-21(11),
13 and shall be eligible to participate in the North Carolina Local Governmental
14 Employees' Retirement System.

15 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1464*

Short Title: Increase Retiree Death Benefit.

(Public)

Sponsors: Senators Jenkins; Ballance, Cooper, Lucas, Martin of Pitt, Miller, Odom, Rand, Reeves, Shaw of Cumberland, and Weinstein.

Referred to: Pensions & Retirement and Insurance.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO INCREASE THE CONTRIBUTORY DEATH BENEFIT FOR
3 RETIREES IN THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
4 SYSTEM, THE CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE
5 LEGISLATIVE RETIREMENT SYSTEM, AND THE LOCAL
6 GOVERNMENTAL RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 135-5(l) reads as rewritten:

9 "(l) Death Benefit Plan. -- There is hereby created a Group Life Insurance Plan
10 (hereinafter called the "Plan") which is established as an employee welfare benefit
11 plan that is separate and apart from the Retirement System and under which the
12 members of the Retirement System shall participate and be eligible for group life
13 insurance benefits. Upon receipt of proof, satisfactory to the Board of Trustees in
14 their capacity as trustees under the Group Life Insurance Plan, of the death, in
15 service, of a member who had completed at least one full calendar year of
16 membership in the Retirement System, there shall be paid to such person as he shall
17 have nominated by written designation duly acknowledged and filed with the Board
18 of Trustees, if such person is living at the time of the member's death, otherwise to
19 the member's legal representatives, a death benefit. Such death benefit shall be equal
20 to the greater of:

21 (1) The compensation on which contributions were made by the
22 member during the calendar year preceding the year in which his
23 death occurs, or

(2) The greatest compensation on which contributions were made by the member during a 12-month period of service within the 24-month period of service ending on the last day of the month preceding the month in which his last day of actual service occurs;

(3), (4) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1049, s. 2.

subject to a minimum of twenty-five thousand dollars (\$25,000) and to a maximum of fifty thousand dollars (\$50,000). Such death benefit shall be payable apart and separate from the payment of the member's accumulated contributions under the System on his death pursuant to the provisions of subsection (f) of this section. For the purpose of the Plan, a member shall be deemed to be in service at the date of his death if his death occurs within 180 days from the last day of his actual service.

The death benefit provided in this subsection (l) shall not be payable, notwithstanding the member's compliance with all the conditions set forth in the preceding paragraph, if his death occurs

(1) After December 31, 1968 and after he has attained age 70; or

(2) After December 31, 1969 and after he has attained age 69; or

(3) After December 31, 1970 and after he has attained age 68; or

(4) After December 31, 1971 and after he has attained age 67; or

(5) After December 31, 1972 and after he has attained age 66; or

(6) After December 31, 1973 and after he has attained age 65; or

(7) After December 31, 1978, but before January 1, 1987, and after he has attained age 70.

Notwithstanding the above provisions, the death benefit shall be payable on account of the death of any member who died or dies on or after January 1, 1974, but before January 1, 1979, after attaining age 65, if he or she had not yet attained age 65, if he or she had not yet attained age 66, was at the time of death completing the work year for those individuals under specific contract, or during the fiscal year for those individuals not under specific contract, in which he or she attained 65, and otherwise met all conditions for payment of the death benefit.

Notwithstanding the above provisions, the Board of Trustees may and is specifically authorized to provide the death benefit according to the terms and conditions otherwise appearing in this Plan in the form of group life insurance, either (i) by purchasing a contract or contracts of group life insurance with any life insurance company or companies licensed and authorized to transact business in this State for the purpose of insuring the lives of members in service, or (ii) by establishing a separate trust fund qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended, for such purpose. To that end the Board of Trustees is authorized, empowered and directed to investigate the desirability of utilizing group life insurance by either of the foregoing methods for the purpose of providing the death benefit. If a separate trust fund is established, it shall be operated in accordance with rules and regulations adopted by the Board of Trustees and all investment earnings on the trust fund shall be credited to such fund.

In administration of the death benefit the following shall apply:

- 1 (1) For the purpose of determining eligibility only, in this subsection
2 "calendar year" shall mean any period of 12 consecutive months
3 or, if less, the period covered by an annual contract of
4 employment. For all other purposes in this subsection "calendar
5 year" shall mean the 12 months beginning January 1 and ending
6 December 31.
- 7 (2) Last day of actual service shall be:
 - 8 a. When employment has been terminated, the last day the
9 member actually worked.
 - 10 b. When employment has not been terminated, the date on
11 which an absent member's sick and annual leave expire,
12 unless he is on approved leave of absence and is in service
13 under the provisions of G.S. 135-4(h).
- 14 (3) For a period when a member is on leave of absence, his status with
15 respect to the death benefit will be determined by the provisions of
16 G.S. 135-4(h).
- 17 (4) A member on leave of absence from his position as a teacher or
18 State employee for the purpose of serving as a member or officer
19 of the General Assembly shall be deemed to be in service during
20 sessions of the General Assembly and thereby covered by the
21 provisions of the death benefit. The amount of the death benefit
22 for such member shall be the equivalent of the salary to which the
23 member would have been entitled as a teacher or State employee
24 during the 12-month period immediately prior to the month in
25 which death occurred, not to be less than twenty-five thousand
26 dollars (\$25,000) nor to exceed fifty thousand dollars (\$50,000).

27 The provisions of the Retirement System pertaining to Administration, G.S. 135-6,
28 and management of funds, G.S. 135-7, are hereby made applicable to the Plan.

29 A member who is a beneficiary of the Disability Income Plan provided for in
30 Article 6 of this Chapter shall be eligible for group life insurance benefits as provided
31 in this subsection, notwithstanding that the member is no longer an employee or
32 teacher or that the member's death occurs after the eligibility period after active
33 service. The basis of the death benefit payable hereunder shall be the higher of the
34 death benefit computed as above or a death benefit based on compensation used in
35 computing the benefit payable under G.S. 135-105 and G.S. 135-106, as may be
36 adjusted for percentage post-disability increases, all subject to the maximum dollar
37 limitation as provided above. A member in receipt of benefits from the Disability
38 Income Plan under the provisions of G.S. 135-112 whose right to a benefit accrued
39 under the former Disability Salary Continuation Plan shall not be covered under the
40 provisions of this paragraph.

41 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under
42 this subsection, of the death of a retired member of the Retirement System on or after
43 July 1, 1988, but before January 1, 1999, there shall be paid a death benefit to the
44 surviving spouse of the deceased retired member or to the deceased retired member's

1 legal representative if not survived by a spouse; provided the retired member has
2 elected, when first eligible, to make, and has continuously made, in advance of his
3 death required contributions as determined by the Board of Trustees on a fully
4 contributory basis, through retirement allowance deductions or other methods
5 adopted by the Board of Trustees, to a group death benefit trust fund administered by
6 the Board of Trustees separate and apart from the Retirement System's Annuity
7 Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-
8 sum payment in the amount of five thousand dollars (\$5,000) upon the completion of
9 twenty-four months of contributions required under this subsection. Should death
10 occur before the completion of twenty-four months of contributions required under
11 this subsection, the deceased retired member's surviving spouse or legal
12 representative if not survived by a spouse shall be paid the sum of the retired
13 member's contributions required by this subsection plus interest to be determined by
14 the Board of Trustees.

15 Upon receipt of proof, satisfactory to the Board of Trustees in its capacity under
16 this subsection, of the death of a retired member of the Retirement System on or after
17 January 1, 1999, there shall be paid a death benefit to the surviving spouse of the
18 deceased retired member or to the deceased retired member's legal representative if
19 not survived by a spouse; provided the retired member has elected, when first
20 eligible, to make, and has continuously made, in advance of his death required
21 contributions as determined by the Board of Trustees on a fully contributory basis,
22 through retirement allowance deductions or other methods adopted by the Board of
23 Trustees, to a group death benefit trust fund administered by the Board of Trustees
24 separate and apart from the Retirement System's Annuity Savings Fund and Pension
25 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount
26 of six thousand dollars (\$6,000) upon the completion of 24 months of contributions
27 required under this subsection. Should death occur before the completion of 24
28 months of contributions required under this subsection, the deceased retired
29 member's surviving spouse or legal representative if not survived by a spouse shall be
30 paid the sum of the retired member's contributions required by this subsection plus
31 interest to be determined by the Board of Trustees."

32 Section 2. G.S. 135-64(g) reads as rewritten:

33 "(g) Upon the death of a retired member on or after July 1, 1988, but before
34 January 1, 1999, there shall be paid a death benefit to the surviving spouse of a
35 deceased retired member or to the deceased retired member's legal representative if
36 not survived by a spouse; provided the retired member has elected, when first
37 eligible, to make, and has continuously made, in advance of his death required
38 contributions as determined by the Board of Trustees on a fully contributory basis,
39 through retirement allowance deductions or other methods adopted by the Board of
40 Trustees, to a group death benefit trust fund administered by the Board of Trustees
41 separate and apart from the Retirement System's Annuity Savings Fund and Pension
42 Accumulation Fund. This death benefit shall be a lump-sum payment in the amount
43 of five thousand dollars (\$5,000) upon the completion of 24 months of contributions
44 required under this subsection. Should death occur before the completion of 24

1 months of contributions required under this subsection, the deceased retired
2 member's surviving spouse or legal representative if not survived by a spouse shall be
3 paid the sum of the retired member's contributions required by this subsection plus
4 interest to be determined by the Board of Trustees."

5 Section 3. G.S. 135-64 is amended by adding a new subsection to read:

6 "(h) Upon the death of a retired member on or after January 1, 1999, there shall
7 be paid a death benefit to the surviving spouse of a deceased retired member or to
8 the deceased retired member's legal representative if not survived by a spouse;
9 provided the retired member has elected, when first eligible, to make, and has
10 continuously made, in advance of his death required contributions as determined by
11 the Board of Trustees on a fully contributory basis, through retirement allowance
12 deductions or other methods adopted by the Board of Trustees, to a group death
13 benefit trust fund administered by the Board of Trustees separate and apart from the
14 Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This
15 death benefit shall be a lump-sum payment in the amount of six thousand dollars
16 (\$6,000) upon the completion of 24 months of contributions required under this
17 subsection. Should death occur before the completion of 24 months of contributions
18 required under this subsection, the deceased retired member's surviving spouse or
19 legal representative if not survived by a spouse shall be paid the sum of the retired
20 member's contributions required by this subsection plus interest to be determined by
21 the Board of Trustees."

22 Section 4. G.S. 120-4.27 reads as rewritten:

23 **"§ 120-4.27. Death benefit.**

24 The designated beneficiary of a member who dies while in service after completing
25 one year of creditable service shall receive a lump-sum payment of an amount equal
26 to the deceased member's highest annual salary, to a maximum of fifteen thousand
27 dollars (\$15,000). For purposes of this death benefit "in service" means currently
28 serving as a member of the North Carolina General Assembly.

29 The death benefit provided by this section shall be designated a group life
30 insurance benefit payable under an employee welfare benefit plan that is separate and
31 apart from the Retirement System but under which the members of the Retirement
32 System shall participate and be eligible for group life insurance benefits. The Board
33 of Trustees is authorized to provide the death benefit in the form of group life
34 insurance either by purchasing a contract or contracts of group life insurance with
35 any life insurance company or companies licensed and authorized to transact business
36 in the State of North Carolina for the purpose of insuring the lives of qualified
37 members in service, or by establishing or affiliating with a separate trust fund
38 qualified under Section 501(c)(9) of the Internal Revenue Code of 1954, as amended.

39 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a
40 retired member of the Retirement System or Retirement Fund on or after July 1,
41 1988, but before January 1, 1999, there shall be paid a death benefit to the surviving
42 spouse of a deceased retired member, or to the deceased retired member's legal
43 representative if not survived by a spouse; provided the retired member has elected,
44 when first eligible, to make, and has continuously made, in advance of his death

1 required contributions as determined by the Retirement System on a fully
2 contributory basis, through retirement allowance deductions or other methods
3 adopted by the Retirement System, to a group death benefit trust fund administered
4 by the Board of Trustees separate and apart from the Retirement System's Annuity
5 Savings Fund and Pension Accumulation Fund. This death benefit shall be a lump-
6 sum payment in the amount of five thousand dollars (\$5,000) upon the completion
7 of twenty-four months of contributions required under this subsection. Should death
8 occur before the completion of twenty-four months of contributions required under
9 this subsection, the deceased retired member's surviving spouse or legal
10 representative if not survived by a spouse shall be paid the sum of the retired
11 member's contributions required by this subsection plus interest to be determined by
12 the Board of Trustees.

13 Upon receipt of proof, satisfactory to the Board of Trustees, of the death of a
14 retired member of the Retirement System or Retirement Fund on or after January 1,
15 1999, there shall be paid a death benefit to the surviving spouse of a deceased retired
16 member, or to the deceased retired member's legal representative if not survived by a
17 spouse; provided the retired member has elected, when first eligible, to make, and has
18 continuously made, in advance of his death required contributions as determined by
19 the Retirement System on a fully contributory basis, through retirement allowance
20 deductions or other methods adopted by the Retirement System, to a group death
21 benefit trust fund administered by the Board of Trustees separate and apart from the
22 Retirement System's Annuity Savings Fund and Pension Accumulation Fund. This
23 death benefit shall be a lump-sum payment in the amount of six thousand dollars
24 (\$6,000) upon the completion of 24 months of contributions required under this
25 subsection. Should death occur before the completion of 24 months of contributions
26 required under this subsection, the deceased retired member's surviving spouse or
27 legal representative if not survived by a spouse shall be paid the sum of the retired
28 member's contributions required by this subsection plus interest to be determined by
29 the Board of Trustees."

30 Section 5. G.S. 128-27(12) reads as rewritten:

31 "(12) Death Benefit for Retired Members. -- Upon receipt of proof, satisfactory to
32 the Board of Trustees in its capacity under this subsection, of the death of a retired
33 member of the Retirement System on or after July 1, 1988, but before January 1,
34 1999, there shall be paid a death benefit to the surviving spouse of the deceased
35 retired member or to the deceased retired member's legal representative if not
36 survived by a spouse; provided the retired member has elected, when first eligible, to
37 make, and has continuously made, in advance of his death required contributions as
38 determined by the Board of Trustees on a fully contributory basis through retirement
39 allowance deductions or other methods adopted by the Board of Trustees, to a group
40 death benefit trust fund administered by the Board of Trustees separate and apart
41 from the Retirement System's Annuity Savings Fund and Pension Accumulation
42 Fund. This death benefit shall be a lump-sum payment in the amount of five
43 thousand dollars (\$5,000) upon the completion of 24 months of contributions
44 required under this subsection. Should death occur before the completion of 24

1 months of contributions required under this subsection, the deceased retired
2 member's surviving spouse or legal representative if not survived by a spouse shall be
3 paid the sum of the retired member's contributions required by this subsection plus
4 interest to be determined by the Board of Trustees."

5 Section 6. G.S. 128-27 is amended by adding a new subsection to read:

6 "(13) Death Benefit for Retired Members. -- Upon receipt of proof, satisfactory to
7 the Board of Trustees in its capacity under this subsection, of the death of a retired
8 member of the Retirement System on or after January 1, 1999, there shall be paid a
9 death benefit to the surviving spouse of the deceased retired member or to the
10 deceased retired member's legal representative if not survived by a spouse; provided
11 the retired member has elected, when first eligible, to make, and has continuously
12 made, in advance of his death required contributions as determined by the Board of
13 Trustees on a fully contributory basis through retirement allowance deductions or
14 other methods adopted by the Board of Trustees, to a group death benefit trust fund
15 administered by the Board of Trustees separate and apart from the Retirement
16 System's Annuity Savings Fund and Pension Accumulation Fund. This death benefit
17 shall be a lump-sum payment in the amount of six thousand dollars (\$6,000) upon the
18 completion of 24 months of contributions required under this subsection. Should
19 death occur before the completion of 24 months of contributions required under this
20 subsection, the deceased retired member's surviving spouse or legal representative if
21 not survived by a spouse shall be paid the sum of the retired member's contributions
22 required by this subsection plus interest to be determined by the Board of Trustees."

23 Section 7. This act becomes effective January 1, 1999.



North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

John W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 16, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

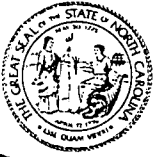
FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1464 - Increase Retiree Death Benefit.

Senate Bill 1464 amends the laws governing the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Legislative Retirement System, and the Local Governmental Employees' Retirement System to increase the contributory death benefit for retirees. Currently, retirees from each of these systems, may elect to make contributions, in an amount determined by the Board of Trustees, to a group death benefit trust fund. The benefit payable at the retirees' death is a lump-sum payment of \$5,000, provided the retiree has made the required contributions for 24 months prior to death. This bill increases the lump-sum death benefit to \$6,000, under the same conditions as currently exist, effective January 1, 1999.

This bill is a recommendation of the Board of Trustees of the Retirement System as a result of the actuary's assertion that the reserves and the contributory rates by retirees are sufficient to increase the death benefit.

This act would become effective January 1, 1999.



North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

John W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 17, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel *KCB*

RE: Senate Bill 1465 - Modify Election of Optional Allowance.

Senate Bill 1465 amends provisions of the laws governing the Legislative, Local Governmental Employees' and the Teachers' and State Employees' Retirement Systems to allow retirees who elected to receive their retirement allowance under a joint and survivor option, naming their spouse as beneficiary, to change the beneficiary if (1) the spouse predeceases the retiree, and (2) the retiree remarries and (3) names the new spouse within 90 days of the marriage. The benefit will be the actuarial equivalent of the benefit in effect immediately prior to the change.

Under current law, if a member elects Option 2, or Option 3, naming his or her spouse as beneficiary, the retiree may revoke the beneficiary designation and make a new designation, if the retiree becomes divorced from his or her spouse. Otherwise, neither the optional election nor the beneficiary designation may be changed after the first payment becomes normally due or the first retirement check has been cashed. Option 2 provides that the retirement allowance will be reduced to fund a benefit to the retiree's designated beneficiary at the retiree's death, equal to 100% of the reduced amount which the retiree received during his or her life. Option 3 provides the same thing except that the survivor's benefit is equal to one half of the retiree's reduced retirement allowance.

This bill amends the law to allow a retiree whose spouse predeceases him or her, and who remarries to name the new spouse as beneficiary to receive the benefit upon the retiree's death. The retiree may not change the optional election and the beneficiary must be changed within 90 days of the remarriage.

This act would become effective when it becomes law.



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George R. Hall, Legislative Services Officer
(919) 733-7044

W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
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(919) 733-4910

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Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
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Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 16, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel: *KCB*

RE: Senate Bill 1407 - Reg. of Deeds Supp. Pension Change.

Senate Bill 1407 amends the Register of Deeds' Supplemental Pension Fund Act to provide benefits to registers of deeds who are otherwise not eligible solely because the county in which they serve does not participate in the Local Governmental Employees' Retirement System. Currently, in order to be eligible to receive the supplemental benefit, a register of deeds must retire from the Local Governmental Employees' Retirement System with at least 10 years of service as a register of deeds.

This bill adds a new provision which states that a register of deeds who is not eligible to retire from the Local system solely because the county is not a participating employer and who has either (i) attained the age of 65, (ii) attained 30 years of creditable service regardless of age, or (iii) attained the age of 60 with not less than 25 years of service, and who has completed at least 10 years of service as a register of deeds is eligible to receive a monthly pension from the Supplemental Fund, provided the register of deeds is not eligible to receive any retirement benefits for any State or locally sponsored plan. The bill further provides that the monthly pension shall be reduced by an amount equal to the benefit that would have been payable, had the register of deeds been a member of the Local Governmental Employees' Retirement System.

This act would become effective July 1, 1998.



North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

John W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 16, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions, Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1183 - Fayetteville Public Works Retirement.

Senate Bill 1183 provides that the Public Works Commission of the City of Fayetteville shall be deemed an employer within the meaning of G.S. 128-21(11) and shall be eligible to participate in the North Carolina Local Governmental Employees' Retirement System.

Currently, the Charter of the City of Fayetteville authorizes the City Council to establish an actuarially sound retirement system for the employees of the Public Works Commission, to be administered by a board of trustees. The system is to be jointly financed by employee contributions and appropriations from the funds of the Public Works Commission.

This bill allows the Public Works Commission to be treated as a separate employer in the Local Governmental Employees' Retirement System and its employees will be eligible to participate in that System.

This act becomes effective when it becomes law.

VISITOR REGISTRATION SHEET

Pension & Retirement

June 17, 98

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Larry Heckner	Household Financial Group
Paul Presnell	NC Retired School Person
A. C. Dawson	" " " "
Thad Daise	NCRF
Carlton D. Jones	NCA R & HS P.O. Box 1914 Goldsboro, NC 27531
Archie Callahan	NCRF & FAS
Robert Prosser	Tobacco Processing Union
Doug Rogers	NCDOT
Michael Caudes	Interco
Paul Mison	NC State Firemen's Assoc.
Daniel Arnold	SEAFNC
Tom M. Housh	" "
Chris O'Harker	Bank of America
Shirley Jackson	Teacher Union
Tim Crowley	NC Public Radio
Betsy Kane	NC League of Municipalities
Kyle Armentrout	NC Senate
David Simmonds	ZOA FX
ELIJAH HAN KINS	NCLM
Hal Miller	NC AECT
Bernard Allen	NC

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Larry Heckner	Household Financial Group.
Larry Presnell	NC Retired School Personnel
E. C. Dawson	" " " "
Thad Daise	NCAE
Gordon B. Tomlin	NCA REEMS P.O. Box 1914 Goldsboro, NC 27533
Angie Callahan	NCA REEMS "
Robert P. Poir	Todd P. Poir Wallace Hwy & Turner
Doug Rogers	NCDOT
Michael Caudes	Inter
David Miller	NC State Firemen's Assoc.
Danell Arnold	SEAN C
Donna Monroe	GA
Crisis Parker	Board of Representatives
Shirley Gaskin	Teacher - Duplin County
Tim Cronley	NC Public Radio
Betsy Kane	NC League of Municipalities
Kyle Armstrong	NC Senate
David Simmons	ZOA PA
ELVIS HAN KINS	NCLM
Hal Miller	NCAECT
Bernard Allen	SOS

VISITOR REGISTRATION SHEET

6-17-98

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Heather Gail

OSA

Bill Wilson

NCAE

Harriet Dial

NCAE

Alia Gregory

Rep Neely's office



North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

John W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

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Raleigh, NC 27603-5925
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Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
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300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 16, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions, Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1183 - Fayetteville Public Works Retirement.

Senate Bill 1183 provides that the Public Works Commission of the City of Fayetteville shall be deemed an employer within the meaning of G.S. 128-21(11) and shall be eligible to participate in the North Carolina Local Governmental Employees' Retirement System.

Currently, the Charter of the City of Fayetteville authorizes the City Council to establish an actuarially sound retirement system for the employees of the Public Works Commission, to be administered by a board of trustees. The system is to be jointly financed by employee contributions and appropriations from the funds of the Public Works Commission.

This bill allows the Public Works Commission to be treated as a separate employer in the Local Governmental Employees' Retirement System and its employees will be eligible to participate in that System.

This act becomes effective when it becomes law.

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS & RETIREMENT/INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Wednesday, June 24, 1998

SENATOR JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

S.B. 1138 Credit for Probationary Employment.
Sequential Referral: None
Recommended Referral: None

FAVORABLE, AS AMENDED

S.B. 1517 Retired Teachers.Retirement Benefits.
Sequential Referral: None
Recommended Referral: Appropriations
Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment:

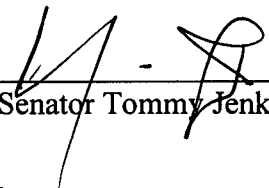
Minutes

The Committee on Pension and Retirement/Insurance met Wednesday, June 24, 1998 at 10:00 in room 1124 of the Legislative Building. There were twelve members in attendance including Senator Jenkins, who presided.

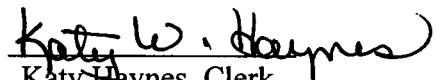
SB 1138 Credit for Probationary Employment was explained by the bill sponsor, Senator Hartsell. Senator East moved for a favorable report. The motion carried.

SB 1517 Retired Teachers/Retirement Benefits was explained by bill sponsor, Senator Lee. Jack Pruitt, Department of Revenue, made comments. Senator Wellons sent forth an amendment and moved for its approval. The amendment was approved. Senator Weinstein moved for favorable as amended report. The motion carried. Senator Jenkins referred the bill to Appropriations.

The meeting was adjourned.



Senator Tommy Jenkins, Chairman



Katy Haynes, Clerk

PENSION & RETIREMENT/ INSURANCE COMMITTEE

Wednesday
June 24 1998
10:00am
Room 1124

AGENDA

SB 1138 Credit for Probationary Employment.
Sen Hartsell

Retired Teachers/Retirement Benefits.
Sen. Lee

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1517

Short Title: Retired Teachers/Retirement Benefits.

(Public)

Sponsors: Senators Lee; and Winner.

Referred to: Pensions and Retirement and Insurance.

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT RETIRED TEACHERS TO WORK AS SUBSTITUTE
3 TEACHERS IN PUBLIC SCHOOLS OR AS TEACHERS IN LOW-
4 PERFORMING PUBLIC SCHOOLS WITHOUT LOSING RETIREMENT
5 BENEFITS.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 135-3(8)c. reads as rewritten:

8 "c. Should a beneficiary who retired on an early or service
9 retirement allowance under this Chapter be reemployed, or
10 otherwise engaged to perform services, by an employer
11 participating in the Retirement System on a part-time,
12 temporary, interim, or on a fee-for-service basis, whether
13 contractual or otherwise, and if such beneficiary earns an
14 amount in any calendar year which exceeds fifty percent
15 (50%) of the reported compensation, excluding terminal
16 payments, during the 12 months of service preceding the
17 effective date of retirement, or twenty thousand dollars
18 (\$20,000), whichever is greater, as hereinafter indexed, then
19 the retirement allowance shall be suspended as of the first
20 day of the month following the month in which the
21 reemployment earnings exceed the amount above, for the
22 balance of the calendar year. The retirement allowance of
23 the beneficiary shall be reinstated as of January 1 of each
24 year following suspension. The amount that may be earned

1 before suspension shall be increased on January 1 of each
2 year by the ratio of the Consumer Price Index to the Index
3 one year earlier, calculated to the nearest tenth of a percent
4 (1/10 of 1%).

5 The computation of postretirement earnings of a
6 beneficiary under this sub-subdivision, G.S 135-3(8)c., shall
7 not include earnings while the beneficiary is employed as a
8 teacher in a public school identified by the State Board of
9 Education as low-performing or as a substitute teacher in a
10 public school."

11 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1138

Short Title: Credit for Probationary Employment.

(Public)

Sponsors: Senator Hartsell.

Referred to: Pensions & Retirement and Insurance.

May 18, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW MEMBERS OF THE TEACHERS' AND STATE
3 EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE CREDIT FOR
4 PROBATIONARY EMPLOYMENT WITH A LOCAL GOVERNMENT.
5 The General Assembly of North Carolina enacts:
6 Section 1. G.S. 135-4 is amended by adding a new subsection to read:
7 "(bb) Credit at Full Cost for Probationary Local Government Employment. --
8 Notwithstanding any other provision of this Chapter, a member may purchase
9 creditable service, prior to retirement, for employment with any local employer as
10 defined in G.S. 128-21(11) when considered to be in a probationary or employer-
11 imposed waiting period status, between the date of employment and the date of
12 membership service with the Local Governmental Employees' Retirement System,
13 provided that the former employer of such a member has revoked this probationary
14 employment or waiting period policy.
15 The member shall purchase this service by making a lump-sum amount payable to
16 the Annuity Savings Fund equal to the full liability of the service credits calculated
17 on the basis of the assumptions used for purposes of the actuarial valuation of the
18 liabilities of the retirement system, and the calculation of the amount payable shall
19 take into account the retirement allowance arising on account of the additional
20 service credit commencing at the earliest age at which the member could retire on an
21 unreduced retirement allowance, as determined by the Board of Trustees upon the
22 advice of the consulting actuary, plus an administrative fee to be set by the Board of
23 Trustees. Notwithstanding the provisions of this subsection that provide for the
24 purchase of service credits, the term 'full liability' includes assumed annual

1 postretirement allowance increases, as determined by the Board of Trustees, from the
2 earliest age at which a member could retire on an unreduced service allowance."

3 Section 2. This act becomes effective July 1, 1998.



North Carolina General Assembly Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

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Bill Drafting Division
Suite 401, LOB
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Raleigh, NC 27603-5925
(919) 733-6660

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Suite 619, LOB
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Raleigh, NC 27603-5925
(919) 733-4910

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Suite 400, LOB
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Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 23, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1138 - Credit for Probationary Employment.

Senate Bill adds a provision to the law governing the Teachers' and State Employees' Retirement System, to allow members of the System to purchase credit for probationary employment with a local government. The member may purchase the service by making a lump-sum payment for the full liability of the service credit.

Currently, a member of the Local Governmental Employees' Retirement System may purchase service for any periods in which the employee was considered to be in a probationary or employer-imposed waiting period status, between the date of employment and the date of membership in the Retirement System, provided the employer has revoked this probationary employment or waiting period policy. However, if a person transfers from the Local System to the State System, without having purchased the service, that person would not be able to purchase the service in the State System.

This bill remedies this situation by making this type of service available for purchase by members of the State System on the same terms as it is now available to members of the Local System.

This act becomes effective July 1, 1998.



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
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Room 5, Legislative Building
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Raleigh, NC 27603-5925
(919) 733-7500

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(919) 733-6660

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(919) 733-4910

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Suite 545, LOB
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Raleigh, NC 27603-5925
(919) 733-2578

June 23, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1517 - Retired Teachers/Retirement Benefits.

Senate Bill 1517 amends the law governing reemployment in public service by retired teachers and state employees, to allow retired teachers and state employees to work as substitute teachers in public schools or as teachers in low-performing public schools without losing retirement benefits.

Under current law, retirees who become reemployed by the public schools or the State may earn up to fifty percent of their final compensation or \$20,000, whichever is greater, in any calendar year. If the earnings exceed that amount, the retirement allowance is suspended for the balance of the calendar year.

This bill adds a new provision which makes the earnings of a retiree who becomes employed as a teacher in a low-performing public school or as a substitute teacher in the public schools, exempt from the computation of postretirement earnings. Thus, a retired teacher could return to teaching in a designated school and earn a full salary while continuing to receive a retirement allowance.

This act would become effective when it becomes law.

VISITOR REGISTRATION SHEET

Senate Persons - Retirement & INS. June 27, 1998

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Susan Harrison	WCPSS
Don Haddy	AARP + Food Banks
D. Parker	Bono & Associates
Ann Beilum	SBE
Harriet Dial	NCAE
Thad Daise	NCAE
Wendy Mills	SEANC
Katherine Joyce	SEANC
J. Blackburn	NC Association of County Commissioners
Heather Lail	OSA
Robert Partin	MAYOR Town of Scotland Neck
Tom Southern	MAYOR WALKERTOWN
Horace Warner	Councilman Walkertown
GARY Loofer	Town Manager - Walkertown
Katie Adams	CCNC

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS & RETIREMENT/INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Monday, June 29, 1998

SENATOR JENKINS,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO C.S. BILL

S.B. 1463	1998 Retirement Benefits Act.
	Draft Number: PCS6852
	Sequential Referral: Appropriations
	Recommended Referral: None
	Long Title Amended: No

S.B. 1517	Retired Teachers/Retirement Benefits.
	Draft Number: PCS9757
	Sequential Referral: None
	Recommended Referral: Appropriations
	Long Title Amended: No

TOTAL REPORTED: 2

Committee Clerk Comment:

MINUTES

The Pension & Retirement /Insurance Committee met Monday, June 29, 1998 at 6:00 p.m. There were eight members in attendance including Sen. Jenkins, who presided.

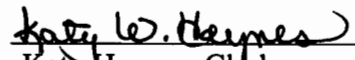
Sen. Reeves moved for a favorable report to consider a committee substitute for **SB 1517 Retired Teachers/Retirement Benefits**. The motion carried. Sen. Lee provided an explanation. Leigh Hammond, NC Retired Govt. Employees' Assn., spoke against the bill. Jack Pruitt, Dept. of Insurance spoke to provide information. Sen. Reeves moved for an unfavorable as to original bill, but favorable to committee substitute bill. The motion carried. Sen. Jenkins referred the bill to Appropriations.

SB 1463 1998 Retirement Benefits Act was explained by Sen. Jenkins. He called on Stanley Moore, Fiscal Research, for further explanation. Sen. McDaniel sent forth an amendment. Sen. Weinstein moved that the amendment lay upon the table. Sen. Reeves moved for an unfavorable as to the original bill, but favorable to committee substitute bill. The motion carried. The bill was referred to Appropriations.

The meeting was adjourned.



Sen. Tommy Jenkins, Chairman



Katy Haynes, Clerk

PENSIONS & RETIREMENT/INSURANCE COMMITTEE MEETING

Monday, June 29, 1998

6:00

1124 LB

Sen. Jenkins, Chairman

AGENDA

SB 1517

Retired Teachers/Retirement Benefits

Sen. Lee

SB 1463

1998 Retirement Benefits Act

Sen. Jenkins

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 1517
Second Edition Engrossed 6/24/98
Proposed Committee Substitute S1517-PCS9757-RO001

Short Title: Retired Teachers/Retirement Benefits.

(Public)

Sponsors:

Referred to:

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO PERMIT RETIRED TEACHERS TO WORK AS SUBSTITUTE
3 TEACHERS IN PUBLIC SCHOOLS OR AS TEACHERS IN LOW-
4 PERFORMING PUBLIC SCHOOLS WITHOUT LOSING RETIREMENT
5 BENEFITS.
6 The General Assembly of North Carolina enacts:
7 Section 1. G.S. 135-3(8)c. reads as rewritten:
8 "c. Should a beneficiary who retired on an early or service
9 retirement allowance under this Chapter be reemployed, or
10 otherwise engaged to perform services, by an employer
11 participating in the Retirement System on a part-time,
12 temporary, interim, or on a fee-for-service basis, whether
13 contractual or otherwise, and if such beneficiary earns an
14 amount in any calendar year which exceeds fifty percent
15 (50%) of the reported compensation, excluding terminal
16 payments, during the 12 months of service preceding the
17 effective date of retirement, or twenty thousand dollars
18 (\$20,000), whichever is greater, as hereinafter indexed, then
19 the retirement allowance shall be suspended as of the first
20 day of the month following the month in which the
21 reemployment earnings exceed the amount above, for the
22 balance of the calendar year. The retirement allowance of

the beneficiary shall be reinstated as of January 1 of each year following suspension. The amount that may be earned before suspension shall be increased on January 1 of each year by the ratio of the Consumer Price Index to the Index one year earlier, calculated to the nearest tenth of a percent (1/10 of 1%).

The computation of postretirement earnings of a beneficiary under this sub-subdivision, G.S. 135-3(8)c., who is or has been certified to teach in North Carolina, shall not include earnings while:

1. The beneficiary is employed as a substitute or interim teacher in a public school identified by the State Board of Education as low-performing; or
2. A beneficiary who has been retired for at least 12 months who is employed to teach in a public school identified by the State Board of Education as low-performing, until the school is no longer identified as low-performing; or
3. A beneficiary who has been retired for at least 12 months who is employed to teach in a public school that qualifies for 'low-wealth supplemental funding'; or
4. A beneficiary who has been retired for at least 12 months who is employed to teach in a subject area and a geographical area in which the State Board of Education finds that there is a shortage of teachers, until the local board of education locates and hires a teacher certified to teach in the subject area.

A beneficiary subject to the provisions of G.S. 135-3(8)c. 1., 2., 3., or 4. shall notify the retirement system when the beneficiary is hired by a local school administrative unit."

Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 1463*
Proposed Committee Substitute S1463-PCS6852-LB1

Short Title: 1998 Retirement Benefits Act.

(Public)

Sponsors:

Referred to:

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE RETIREMENT BENEFITS PAYABLE FROM THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE
4 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE
5 RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL
6 EMPLOYEES' RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 135-5 is amended by adding a new subsection to read:

9 "(eee) From and after July 1, 1998, the retirement allowance to or on account of
10 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
11 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
12 1998, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1998, the
13 retirement allowance to or on account of beneficiaries whose retirement commenced
14 after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount
15 of two and one-half percent (2.5%) of the allowance payable as determined by the
16 Board of Trustees based upon the number of months that a retirement allowance was
17 paid between July 1, 1997, and June 30, 1998."

18 Section 2. G.S. 135-65 is amended by adding a new subsection to read:

19 "(s) From and after July 1, 1998, the retirement allowance to or on account of
20 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
21 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
22 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on
23 account of beneficiaries whose retirement commenced after July 1, 1997, but before

1 June 30, 1998, shall be increased by a prorated amount of two and one-half percent
2 (2.5%) of the allowance payable as determined by the Board of Trustees based upon
3 the number of months that a retirement allowance was paid between July 1, 1997,
4 and June 30, 1998."

5 Section 3. G.S. 120-4.22A is amended by adding a new subsection to
6 read:

7 "(m) In accordance with subsection (a) of this section, from and after July 1, 1998,
8 the retirement allowance to or on account of beneficiaries whose retirement
9 commenced on or before January 1, 1998, shall be increased by two and one-half
10 percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and
11 after July 1, 1998, the retirement allowance to or on account of beneficiaries whose
12 retirement commenced after January 1, 1998, but before June 30, 1998, shall be
13 increased by a prorated amount of two and one-half percent (2.5%) of the allowance
14 payable as determined by the Board of Trustees based upon the number of months
15 that a retirement allowance was paid between January 1, 1998, and June 30, 1998."

16 Section 3.1. G.S. 128-27(b16) reads as rewritten:

17 "(b16) Service Retirement Allowance of Member Retiring on or after July 1, 1997-
18 1997, but before July 1, 1998. -- Upon retirement from service in accordance with
19 subsection (a) or (a1) above, on or after July 1, 1997, but before July 1, 1998, a
20 member shall receive the following service retirement allowance:

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

24 a. If the member's service retirement date occurs on or after
25 his 55th birthday, and completion of five years of creditable
26 service as a law enforcement officer, or after the completion
27 of 30 years of creditable service, the allowance shall be
28 equal to one and seventy-six hundredths percent (1.76%) of
29 his average final compensation, multiplied by the number of
30 years of his creditable service.

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

- 36 1. The service retirement allowance payable under G.S.
37 128-27(b16)(1)a. reduced by one-third of one percent
38 (1/3 of 1%) thereof for each month by which his
39 retirement date precedes the first day of the month
40 coincident with or next following the month the
41 member would have attained his 55th birthday; or
- 42 2. The service retirement allowance as computed under
43 G.S. 128-27(b16)(1)a. reduced by five percent (5%)

- 1 times the difference between 30 years and his
2 creditable service at retirement.
- 3 (2) A member who is not a law enforcement officer or an eligible
4 former law enforcement officer shall receive a service retirement
5 allowance computed as follows:
- 6 a. If the member's service retirement date occurs on or after
7 his 65th birthday upon the completion of five years of
8 creditable service or after the completion of 30 years of
9 creditable service or on or after his 60th birthday upon the
10 completion of 25 years of creditable service, the allowance
11 shall be equal to one and seventy-six hundredths percent
12 (1.76%) of average final compensation, multiplied by the
13 number of years of creditable service.
- 14 b. If the member's service retirement date occurs after his 60th
15 birthday and before his 65th birthday and prior to his
16 completion of 25 years or more of creditable service, his
17 retirement allowance shall be computed as in G.S. 128-
18 27(b16)(2)a. but shall be reduced by one-quarter of one
19 percent ($\frac{1}{4}$ of 1%) thereof for each month by which his
20 retirement date precedes the first day of the month
21 coincident with or next following his 65th birthday.
- 22 c. If the member's early service retirement date occurs on or
23 after his 50th birthday and before his 60th birthday and after
24 completion of 20 years of creditable service but prior to the
25 completion of 30 years of creditable service, his early service
26 retirement allowance shall be equal to the greater of:
- 27 1. The service retirement allowance as computed under
28 G.S. 128-27(b16)(2)a. but reduced by the sum of five-
29 twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for each
30 month by which his retirement date precedes the first
31 day of the month coincident with or next following
32 the month the member would have attained his 60th
33 birthday, plus one-quarter of one percent ($\frac{1}{4}$ of 1%)
34 thereof for each month by which his 60th birthday
35 precedes the first day of the month coincident with or
36 next following his 65th birthday; or
- 37 2. The service retirement allowance as computed under
38 G.S. 128-27(b16)(2)a. reduced by five percent (5%)
39 times the difference between 30 years and his
40 creditable service at retirement; or
- 41 3. If the member's creditable service commenced prior
42 to July 1, 1995, the service retirement allowance
43 equal to the actuarial equivalent of the allowance

payable at the age of 60 years as computed in G.S. 128-27(b16)(2)b.

- d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

Section 3.2. G.S. 128-27 is amended by adding a new subsection to read:

"(b17) Service Retirement Allowance of Member Retiring on or After July 1, 1998. -- Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 1998, a member shall receive the following service retirement allowance:

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

- a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and seventy-seven hundredths percent (1.77%) of his average final compensation, multiplied by the number of years of his creditable service.

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

1. The service retirement allowance payable under G.S. 128-27(b17)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
2. The service retirement allowance as computed under G.S. 128-27(b17)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

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

- a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of five years of creditable service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance

shall be equal to one and seventy-seven hundredths percent (1.77%) of average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 128-27(b17)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

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

1. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b17)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1995, the service retirement allowance equal to the actuarial equivalent of the allowance payable at the age of 60 years as computed in G.S. 128-27(b17)(2)b.

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by G.S. 128-27(b)."

Section 3.3. G.S. 128-27(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. -- Upon the death of a member in service, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the

1 member had retired on the first day of the month following the date of his death,
2 provided that all three of the following conditions apply:

- 3 (1) a. The member had attained such age and/or creditable service
4 to be eligible to commence retirement with an early or
5 service retirement allowance, or
6 b. The member had obtained 20 years of creditable service in
7 which case the retirement allowance shall be computed in
8 accordance with ~~G.S. 128-27(b16)(1)b.~~ G.S. 128-27(b17)(1)b.
9 or ~~G.S. 128-27(b16)(2)e.,~~ G.S. 128-27(b17)(2)c.,
10 notwithstanding the requirement of obtaining age 50.
11 (2) The member had designated as the principal beneficiary to receive
12 a return of his accumulated contributions one and only one person
13 who is living at the time of his death.
14 (3) The member had not instructed the Board of Trustees in writing
15 that he did not wish the provisions of this subsection apply.

16 For the purpose of this benefit, a member is considered to be in service at the date
17 of his death if his death occurs within 180 days from the last day of his actual service.
18 The last day of actual service shall be determined as provided in subsection (l) of this
19 section. Upon the death of a member in service, the surviving spouse may make all
20 purchases for creditable service as provided for under this Chapter for which the
21 member had made application in writing prior to the date of death, provided that the
22 date of death occurred prior to or within 60 days after notification of the cost to
23 make the purchase."

24 Section 4. G.S. 128-27 is amended by adding a new subsection to read:

25 "(uu) From and after July 1, 1998, the retirement allowance to or on account of
26 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
27 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
28 1998, in accordance with subsection (k) of this section. Furthermore, from and after
29 July 1, 1998, the retirement allowance to or on account of beneficiaries whose
30 retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased
31 by a prorated amount of two and one-half percent (2.5%) of the allowance payable as
32 determined by the Board of Trustees based upon the number of months that a
33 retirement allowance was paid between July 1, 1997, and June 30, 1998."

34 Section 5. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

D

SENATE BILL 1463*

Proposed Committee Substitute S1463-PCS9759-LB1

Short Title: 1998 Retirement Benefits Act.

(Public)

Sponsors:

Referred to:

May 28, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO ENHANCE THE RETIREMENT BENEFITS PAYABLE FROM THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE
4 CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, THE LEGISLATIVE
5 RETIREMENT SYSTEM, AND THE LOCAL GOVERNMENTAL
6 EMPLOYEES' RETIREMENT SYSTEM.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 135-5 is amended by adding a new subsection to read:

9 "(eee) From and after July 1, 1998, the retirement allowance to or on account of
10 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
11 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
12 1998, in accordance with G.S. 135-5(o). Furthermore, from and after July 1, 1998, the
13 retirement allowance to or on account of beneficiaries whose retirement commenced
14 after July 1, 1997, but before June 30, 1998, shall be increased by a prorated amount
15 of two and one-half percent (2.5%) of the allowance payable as determined by the
16 Board of Trustees based upon the number of months that a retirement allowance was
17 paid between July 1, 1997, and June 30, 1998."

18 Section 2. G.S. 135-65 is amended by adding a new subsection to read:

19 "(s) From and after July 1, 1998, the retirement allowance to or on account of
20 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
21 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
22 1998. Furthermore, from and after July 1, 1998, the retirement allowance to or on
23 account of beneficiaries whose retirement commenced after July 1, 1997, but before

1 June 30, 1998, shall be increased by a prorated amount of two and one-half percent
2 (2.5%) of the allowance payable as determined by the Board of Trustees based upon
3 the number of months that a retirement allowance was paid between July 1, 1997,
4 and June 30, 1998."

5 Section 3. G.S. 120-4.22A is amended by adding a new subsection to
6 read:

7 "(m) In accordance with subsection (a) of this section, from and after July 1, 1998,
8 the retirement allowance to or on account of beneficiaries whose retirement
9 commenced on or before January 1, 1998, shall be increased by two and one-half
10 percent (2.5%) of the allowance payable on June 1, 1998. Furthermore, from and
11 after July 1, 1998, the retirement allowance to or on account of beneficiaries whose
12 retirement commenced after January 1, 1998, but before June 30, 1998, shall be
13 increased by a prorated amount of two and one-half percent (2.5%) of the allowance
14 payable as determined by the Board of Trustees based upon the number of months
15 that a retirement allowance was paid between January 1, 1998, and June 30, 1998."

16 Section 4. G.S. 128-27 is amended by adding a new subsection to read:

17 "(uu) From and after July 1, 1998, the retirement allowance to or on account of
18 beneficiaries whose retirement commenced on or before July 1, 1997, shall be
19 increased by two and one-half percent (2.5%) of the allowance payable on June 1,
20 1998, in accordance with subsection (k) of this section. Furthermore, from and after
21 July 1, 1998, the retirement allowance to or on account of beneficiaries whose
22 retirement commenced after July 1, 1997, but before June 30, 1998, shall be increased
23 by a prorated amount of two and one-half percent (2.5%) of the allowance payable as
24 determined by the Board of Trustees based upon the number of months that a
25 retirement allowance was paid between July 1, 1997, and June 30, 1998."

26 Section 5. This act becomes effective July 1, 1998.



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 23, 1998

MEMORANDUM

TO: Senator Thomas Jenkins, Chairman,
Senate Pensions and Retirement and Insurance Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: Senate Bill 1517 - Retired Teachers/Retirement Benefits.

Senate Bill 1517 amends the law governing reemployment in public service by retired teachers and state employees, to allow retired teachers and state employees to work as substitute teachers in public schools or as teachers in low-performing public schools without losing retirement benefits.

Under current law, retirees who become reemployed by the public schools or the State may earn up to fifty percent of their final compensation or \$20,000, whichever is greater, in any calendar year. If the earnings exceed that amount, the retirement allowance is suspended for the balance of the calendar year.

This bill adds a new provision which makes the earnings of a retiree who becomes employed as a teacher in a low-performing public school or as a substitute teacher in the public schools, exempt from the computation of postretirement earnings. Thus, a retired teacher could return to teaching in a designated school and earn a full salary while continuing to receive a retirement allowance.

This act would become effective when it becomes law.

VISITOR REGISTRATION SHEET

Pensions & Retirement
Name of Committee6-29-98
Date~~May 29, 1998~~

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK.

NAME

FIRM OR AGENCY AND ADDRESS

Ann Belam

SBE

Andy Roman

N.C.L.M.

Ed Adams

N.C. Betterment Commission

Ron Cynoch

Corentas

Carol Howard

DMV

Ruth Sappie

NC DOT

J. Y.

SEAME

Daniel Arnold

SEAN NC

Pat Bruffard

SEAN NC

Jesse M. Longley

SEAN NC

Katherine Joyce

SEAN NC

Chuck Thomas

SEAN NC

Troy Green

SEAN NC

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT/INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Tuesday, June 30, 1998

SENATOR JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

S.B.	1334	Campus LEO Salary Cont.	
		Sequential Referral:	None
		Recommended Referral:	Appropriations

TOTAL REPORTED: 1

Committee Clerk Comment:

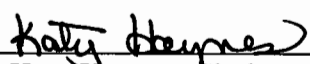
Minutes

The Pensions&Retirement/Insurance Committee met July 29, 1998 immediately following Session. There were eleven Members in attendance including Senator Jenkins, who presided.

SB 1334 Campus LEO Salary Cont. was explained by Senator Cooper. Senator Weinstein moved for a favorable report. The motion carried.

The meeting was adjourned.



Sen. Tommy Jenkins, Chairman

Katy Haynes, Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

1

SENATE BILL 1334

Short Title: Campus LEO Salary Cont.

(Public)

Sponsors: Senators Cooper; and Rand.

Referred to: Appropriations.

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE SALARY CONTINUATION BENEFITS FOR
3 UNIVERSITY SYSTEM CAMPUS LAW ENFORCEMENT OFFICERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 143-166.13(a) is amended by adding a new subdivision to
6 read:

7 "(19) Sworn State Law-Enforcement Officers with the power of arrest,
8 University System."

9 Section 2. This act becomes effective July 1, 1998, and applies to
10 incapacities that occur on or after that date.

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE ACTUARIAL NOTE

BILL NUMBER: Senate Bill 1334

SHORT TITLE: Campus LEO Salary Cont.

SPONSOR(S): Senator Cooper

SYSTEM AFFECTED: Salary Continuation Benefits for law enforcement officers.

BILL SUMMARY: Under the present law, the law enforcement officers specified in G.S. 143-166.13(a) are eligible to receive up to two years of salary continuation in the event of an on-the-job injury. This bill extends the Salary Continuation Benefits for law enforcement officers employed with the University System

EFFECTIVE DATE: July 1, 1998

ESTIMATED IMPACT: Both actuaries agree that, based on the experience for the last three years of law enforcement officers with the University System, claims should not exceed \$10,000 per year. The estimates are based on a total group of 357 law enforcement officers with total annual salaries of \$11,825,000.

SOURCES OF DATA: Data from the University System for 1995 through 1997 on the number of on-the-job injuries, number of days missed and the salary of the officers injured.

FISCAL RESEARCH DIVISION: The above information is provided in accordance with North Carolina General Statute 120-114 and applicable Rules of the North Carolina Senate and House of Representatives.

(919) 733-4910

PREPARED BY: Stanley Moore *SM*

APPROVED BY: Tom Covington



DATE: June 10, 1998

NORTH CAROLINA GENERAL ASSEMBLY
SENATE

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Wednesday, July 22, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

H.B. 1277	Fayetteville Public Works Retirement
	Sequential Referral: None
	Recommended Referral: None

H.B. 1522	Local/State Purchase of Service
	Sequential Referral: Appropriations
	Recommended Referral: None

H.B. 1525	Repeal Laurinburg Supp. Pension
	Sequential Referral: None
	Recommended Referral: None

UNFAVORABLE AS TO CONCURRENCE

S.B.(HCS #3)843	Insurance Technical Changes
-----------------	-----------------------------

TOTAL REPORTED: 4

Committee Clerk Comment: None

MINUTES

The Pensions&Retirement/Insurance committee met Wednesday, July 22, 1998 at 10:00 in Room 1124 of the Legislative Building. There were 19 members in attendance including Sen. Jenkins, who presided.

HB 1277 Fayetteville Public Works Retirement was explained by Rep. Hurley. Sen. Odom moved for a favorable report. The motion carried.

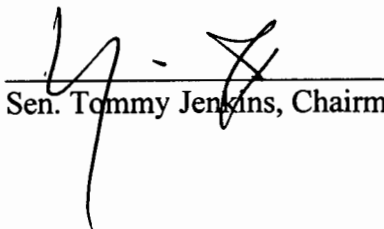
HB 1525 Repeal Laurinburg Supp. Pension was explained by Sen Purcell. Sen. Odom moved for a favorable report. The motion carried.

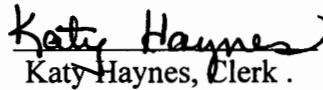
HB1522 Local/State Purchase of Services was explained by Sen. Reeves. He called on Stanley Moore, Fiscal Research, for an explanation of the bill. Sen. Webster moved for a favorable report. The motion carried.

HB 926 Preferred Provider Contracts was brought forward for review. Staff persons, Linwood Jones and Bill Hale gave information and explanation. There was no vote on the bill.

SB[HC# 3] 843 Insurance Technical Changes was introduced by Sen. Jenkins. Sen. Soles moved to not concur with the bill in its present form. The motion carried.

The meeting was adjourned.


Sen. Tommy Jenkins, Chairman


Katy Haynes, Clerk.

Pension&Retirement/Insurance Committee

Wednesday, July 22, 1998

10:00

Room 1124 LB

Sen. Jenkins, Chairman

Agenda

HB 1277

Fayetteville Public Works Retirement

Rep. Hurley

HB 926

Preferred Provider Contracts

Rep. Brawley

HB 1525

Repeal Laurinburg Supp. Pension

Rep. Yongue

SB 843

Insurance Technical Changes

Sen. Jenkins

HB 1522

Local/State Purchase of Service

Rep. Miner

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1277

Short Title: Fayetteville Public Works Retirement.

(Local)

Sponsors: Representatives Hurley; Gamble, Kinney, McAllister, Morris, Nye, Sutton, Warner, and Yongue.

Referred to: Local and Regional Government I.

May 14, 1998

1 A BILL TO BE ENTITLED

2 AN ACT TO ALLOW THE PUBLIC WORKS COMMISSION OF THE CITY OF
3 FAYETTEVILLE TO PARTICIPATE IN THE LOCAL GOVERNMENTAL
4 EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 Section 1. Notwithstanding any provisions of Article 3 of Chapter 128 of
7 the General Statutes and of Section 6.20 of the Charter of the City of Fayetteville, as
8 set forth in Section 1 of Chapter 557 of the 1979 Session Laws, the Public Works
9 Commission of the City of Fayetteville, as described and continued by Section 6.1 of
10 the Charter of the City of Fayetteville as set forth in Section 1 of Chapter 557 of the
11 1979 Session Laws, as amended by Section 2 of Chapter 756 of the 1981 Session
12 Laws, shall be deemed to be an "employer" within the meaning of G.S. 128-21(11),
13 and shall be eligible to participate in the North Carolina Local Governmental
14 Employees' Retirement System.

15 Section 2. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1525

Short Title: Repeal Laurinburg Supp. Pension.

(Local)

Sponsors: Representative Yongue.

Referred to: Local and Regional Government I, if favorable, Pensions and Retirement.

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE ACT ESTABLISHING A SUPPLEMENTARY
3 PENSION FUND FOR FIREMEN IN THE CITY OF LAURINBURG.
4 The General Assembly of North Carolina enacts:
5 Section 1. Sections 1 through 7 of Chapter 1315 of the 1979 Session
6 Laws are repealed.
7 Section 2. All funds held by the Trustees of the Laurinburg Firemen's
8 Supplemental Retirement Fund are transferred to the Board of Trustees of the Local
9 Firemen's Relief Fund of the City of Laurinburg to be held and administered as
10 provided in Article 86 of Chapter 58 of the General Statutes.
11 Section 3. This act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1522

Short Title: Local/State Purchase of Service.

(Public)

Sponsors: Representative Miner.

Referred to: Pensions & Retirement, if favorable, Appropriations.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO ALLOW MEMBERS OF THE LOCAL GOVERNMENTAL
EMPLOYEES' RETIREMENT SYSTEM TO PURCHASE SERVICE
RENDERED AS A PART-TIME TEACHER OR STATE EMPLOYEE AND TO
ALLOW MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES'
RETIREMENT SYSTEM TO PURCHASE SERVICE RENDERED AS A
LOCAL GOVERNMENTAL EMPLOYEE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-26(p)(1) reads as rewritten:

"(1) Notwithstanding any other provision of this Chapter, upon completion of five years of membership service, any member may purchase service previously rendered as a part-time employee of a participating employer as defined in ~~G.S. 128-21(11)~~, G.S. 128-21(11) or G.S. 135-1(11), except for temporary or part-time service rendered while a full-time student in pursuit of a degree or diploma in a degree-granting program. Payment shall be made in a single lump sum in an amount equal to the full actuarial cost of providing credit for the service, together with interest and an administrative fee, as determined by the Board of Trustees on the advice of the Retirement System's actuary. Notwithstanding the provisions of G.S. 128-26(b), the Board of Trustees shall fix and determine by appropriate rules and regulations how much service in any year, as based on compensation, is equivalent to one year of service in proportion to "earnable compensation", but in no case

1 shall more than one year of service be creditable for all service in
2 one year. Notwithstanding the foregoing provisions of this
3 subdivision that provide for the purchase of service credits, the
4 terms "full cost", "full liability", and "full actuarial cost" include
5 assumed annual post-retirement allowance increases, as determined
6 by the Board of Trustees, from the earliest age at which a member
7 could retire on an unreduced service allowance."

8 Section 2. G.S. 128-26(r) reads as rewritten:

9 "(r) Credit at Full Cost for Temporary ~~Local~~ Government Employment. --
10 Notwithstanding any other provisions of this Chapter, any member may purchase
11 creditable service for ~~local~~ government employment when classified as a temporary
12 employee subject to the conditions that:

- 13 (1) The member was employed by an employer as defined in ~~G.S.~~
14 ~~128-21(11)~~; G.S. 128-21(11) or G.S. 135-1(11);
- 15 (2) The member's temporary employment met all other requirements
16 of ~~G.S. 128-21(10)~~; G.S. 128-21(10), or G.S. 135-1(10) or (25);
- 17 (3) The member has completed five years or more of membership
18 service;
- 19 (4) The member acquires from the employer such certifications of
20 temporary employment as are required by the Board of Trustees;
21 and
- 22 (5) The member makes a lump sum payment into the Annuity Savings
23 Fund equal to the full liability of the service credits calculated on
24 the basis of the assumptions used for purposes of the actuarial
25 valuation of the retirement system's liabilities, and the calculation
26 of the amount payable shall take into account the retirement
27 allowance arising on account of the additional service credit
28 commencing at the earliest age at which the member could retire
29 on an unreduced retirement allowance, as determined by the
30 Board of Trustees upon the advice of the actuary, plus an
31 administrative fee to be determined by the Board of Trustees.
32 Notwithstanding the foregoing provisions of this subdivision that
33 provide for the purchase of service credits, the terms "full cost",
34 "full liability", and "full actuarial cost" include assumed annual
35 post-retirement allowance increases, as determined by the Board of
36 Trustees, from the earliest age at which a member could retire on
37 an unreduced service allowance."

38 Section 3. G.S. 135-4(p1)(1) reads as rewritten:

- 39 "(1) Notwithstanding any other provision of this Chapter, upon
40 completion of five years of membership service, any member may
41 purchase service previously rendered as a part-time teacher or
42 employee of ~~the State~~; an employer as defined in G.S. 135-1(11) or
43 G.S. 128-21(11), except for temporary or part-time service
44 rendered while a full-time student in pursuit of a degree or

1 diploma in a degree-granting program. Payment shall be made in a
2 single lump sum in an amount equal to the full actuarial cost of
3 providing credit for the service, together with interest and an
4 administrative fee, as determined by the Board of Trustees on the
5 advice of the Retirement System's actuary. Notwithstanding the
6 provisions of G.S. 135-4(b), the Board of Trustees shall fix and
7 determine by appropriate rules and regulations how much service
8 in any year, as based on compensation, is equivalent to one year of
9 service in proportion to "earnable compensation", but in no case
10 shall more than one year of service be creditable for all service in
11 one year. Service rendered for the regular school year in any
12 district shall be equivalent to one year's service. Notwithstanding
13 the foregoing provisions of this subdivision that provide for the
14 purchase of service credits, the terms "full cost", "full liability",
15 and "full actuarial cost" include assumed annual post-retirement
16 allowance increases, as determined by the Board of Trustees, from
17 the earliest age at which a member could retire on an unreduced
18 service allowance."

19 Section 4. G.S. 135-4(s) reads as rewritten:

20 "(s) Credit at Full Cost for Temporary State Employment. -- In addition to the
21 provisions of subsection (p) above, any member may purchase creditable service for
22 State employment when classified as a temporary teacher or employee subject to the
23 conditions that the:

- 24 (1) Member was employed by an employer as defined in ~~G.S.~~
25 ~~135-1(11)~~; G.S. 135-1(11) or G.S. 128-21(11);
- 26 (2) Member's temporary employment met all other requirements of
27 G.S. 135-1(10) ~~or (25)~~; or (25), or G.S. 128-21(10);
- 28 (3) Member has completed five years or more of membership service;
- 29 (4) Member acquires from the employer such certifications of
30 temporary employment as are required by the Board of Trustees;
31 and
- 32 (5) Member makes a lump sum payment into the Annuity Savings
33 Fund equal to the full liability of the service credits calculated on
34 the basis of the assumptions used for purposes of the actuarial
35 valuation of the Retirement System's liabilities and shall take into
36 account the retirement allowance arising on account of the
37 additional service credit commencing at the earliest age at which
38 the member could retire on an unreduced retirement allowance, as
39 determined by the Board of Trustees upon the advice of the
40 actuary, plus an administrative expense fee to be determined by
41 the Board of Trustees. Notwithstanding the foregoing provisions of
42 this subdivision that provide for the purchase of service credits, the
43 terms "full cost", "full liability", and "full actuarial cost" include
44 assumed annual post-retirement allowance increases, as determined

- 1 by the Board of Trustees, from the earliest age at which a member
2 could retire on an unreduced service allowance.
3 The provisions of this subsection shall also apply to the purchase of creditable service
4 for State employment when classified as a permanent hourly employee in accordance
5 with G.S. 126-5(c4)."
6 Section 5. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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1

SENATE BILL 843

Short Title: Insurance Technical Changes.

(Public)

Sponsors: Senator Jenkins.

Referred to: Pensions & Retirement and Insurance.

April 15, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND
3 CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS
4 INSURANCE STATUTES; AND TO EXTEND THE EXPIRATION DATE OF
5 THE 1986 RISK SHARING PLAN LAW.

6 The General Assembly of North Carolina enacts:

7 **PART I. REPEALS OF OBSOLETE PROVISIONS.**

8 Section 1. G.S. 58-2-120, 58-3-125, 58-6-10, 58-7-150, and 58-41-35 are
9 repealed.

10 Section 2. Article 47 of Chapter 58 of the General Statutes, the North
11 Carolina Health Care Excess Liability Fund, which includes G.S. 58-47-1, 58-47-5, 58-
12 47-10, 58-47-15, 58-47-20, 58-47-25, 58-47-30, 58-47-35, 58-47-40, 58-47-45, and 58-47-
13 50, is repealed.

14 Section 3. Article 68 of Chapter 58 of the General Statutes, the North
15 Carolina Health Insurance Trust Commission, which includes G.S. 58-68-1, 58-68-5,
16 58-68-10, 58-68-15, and 58-68-20, is repealed.

17 Section 4. G.S. 120-123(55) and (65) are repealed.

18 Section 5. G.S. 58-36-15(e) reads as rewritten:

19 "(e) The Commissioner may require the filing of supporting data including:

- 20 (1) The Bureau's interpretation of any statistical data relied upon;
21 (2) Descriptions of the methods employed in setting the rates;
22 (3) Analysis of the incurred losses submitted on an accident year or
23 policy year basis into their component parts; to wit, paid losses,

reserves for losses and loss expenses, and reserves for losses incurred but not reported;

(4) The total number and dollar amount of paid claims;

(5) The total number and dollar amount of case basis reserve claims;

(6) Earned and written premiums at current rates by rating territory;

(7) Earned premiums and incurred losses according to classification plan categories; and

(8) Income from investment of unearned premiums and loss and loss expense reserves generated by business within this State.

~~Provided, however, that with respect to business written prior to January 1, 1980, the Commissioner shall not require the filing of such supporting data which has not been required to be recorded under statistical plans approved by the Commissioner."~~

Section 6. G.S. 58-3-115 reads as rewritten:

"§ 58-3-115. Twisting with respect to insurance policies; penalties.

No insurer shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person who violates this section is subject to the provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S. 58-3-100."

Section 7. G.S. 58-30-75(7) reads as rewritten:

"(7) Without first obtaining the written consent of the ~~Commissioner~~ pursuant to ~~G.S. 58-7-150~~, Commissioner, the insurer has (i) transferred, or attempted to transfer, in a manner contrary to Article 19 of this Chapter, substantially its entire property or business, or (ii) has entered into any transaction, the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person."

Section 8. G.S. 58-41-40(a) reads as rewritten:

"(a) There is no liability on the part of and no cause of action for defamation or invasion of privacy arises against any insurer or its authorized representatives, agents, or employees, or any licensed insurance agent or broker, for any communication or statement made, unless shown to have been made in bad faith with malice, in any of the following:

(1) A written notice of cancellation under ~~G.S. 58-41-15~~, G.S. 58-41-15 or of nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an agency under G.S. 58-41-35~~, specifying the reasons therefor;

(2) Communications providing information pertaining to such cancellation, nonrenewal, or cessation of business through an agency;

1 (3) Evidence submitted at any court proceeding, administrative
2 hearing, or informal inquiry in which such cancellation,
3 nonrenewal, or cessation of business through an agency is an
4 issue."

5 **PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S. 58-2-**
6 **50.**

7 Section 9. G.S. 58-34-2(j) reads as rewritten:

8 "(j) The Commissioner shall disapprove any such contract that:

- 9 (1) Does not contain the required contract provisions specified in
10 subsection (d) of this section;
11 (2) Subjects the insurer to excessive charges for expenses or
12 commission;
13 (3) Vests in the MGA any control over the management of the affairs
14 of the insurer to the exclusion of the board of directors of the
15 insurer;
16 (4) Is entered into with any person if the person or its officers and
17 directors are of known bad character or have been affiliated
18 directly or indirectly through ownership, control, management,
19 reinsurance transactions, or other insurance or business
20 relationships with any person known to have been involved in the
21 improper manipulation of assets, accounts, or reinsurance; or
22 (5) Is determined by the Commissioner to contain provisions that are
23 not fair and reasonable to the insurer.

24 Failure of the Commissioner to disapprove any such contract within 30 days after the
25 contract has been filed with the Commissioner constitutes the Commissioner's
26 approval of the contract. An insurer may continue to accept business from such
27 person until the Commissioner disapproves the contract. Any disapproval shall be in
28 writing. The Commissioner may, after ~~a hearing held under G.S. 58-2-50, notice and~~
29 ~~an opportunity for a hearing,~~ withdraw approval of any contract the Commissioner
30 has previously approved upon finding that the basis of the original approval no
31 longer exists or that the contract has, in actual operation, shown itself to be subject to
32 disapproval on any of the grounds in this subsection."

33 Section 10. G.S. 58-34-15(b) reads as rewritten:

34 "(b) If the Commissioner disapproves any management contract, notice of such
35 action shall be given to the insurer assigning the reasons therefor in writing. The
36 Commissioner shall grant any party to the contract a hearing upon ~~request according~~
37 ~~to G.S. 58-2-50. request.~~"

38 Section 11. G.S. 58-40-100 reads as rewritten:

39 "**§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting**
40 **rule.**

41 (a) Any person aggrieved by any rate charged, rating plan, rating system, or
42 underwriting rule followed or adopted by an insurer or rating organization may
43 request the insurer or rating organization to review the manner in which the rate,
44 plan, system, or rule has been applied with respect to insurance afforded him. Such

1 request may be made by his authorized representative, and shall be in writing. If the
2 request is not granted within 30 days after it is made, the requestor may treat it as
3 rejected. Any person aggrieved by the action of an insurer or rating organization in
4 refusing the review requested or in failing or refusing to grant all or part of the relief
5 requested, may file a written complaint and request for hearing with the
6 Commissioner, and shall specify the grounds relied upon. If the Commissioner has
7 information concerning a similar complaint he may deny the hearing. If the
8 Commissioner believes that probable cause for the complaint does not exist or that
9 the complaint is not made in good faith, he shall deny the hearing. If the
10 Commissioner finds that the complaint charges a violation of this Article and that the
11 complainant would be aggrieved if the violation is proven, he shall proceed as
12 provided in G.S. ~~58-2-50 or~~ 58-2-70.

13 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1027, s. 15."

14 Section 12. G.S. 58-42-1 reads as rewritten:

15 "§ 58-42-1. Establishment of plans.

16 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50,~~
17 hearing, that in all or any part of this State, any amount or kind of insurance
18 authorized by G.S. 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the
19 voluntary market and that the public interest requires the availability of that
20 insurance, he may either:

21 (1) Promulgate plans to provide insurance coverage for any risks in
22 this State that are, based on reasonable underwriting standards,
23 entitled to obtain but are otherwise unable to obtain coverage; or

24 (2) Call upon insurers to prepare plans for his approval."

25 Section 13. G.S. 58-45-50 reads as rewritten:

26 "§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from
27 Commissioner to superior court.

28 Any person or any insurer who may be aggrieved by an act, ruling or decision of
29 the Association other than an act, ruling or decision relating to the cause or amount
30 of a claimed loss, may, within 30 days after such ruling appeal to the Commissioner.
31 Any hearings held by the Commissioner pursuant to such an appeal shall be in
32 ~~accordance with the procedure set forth in G.S. 58-2-50: rules adopted by the~~
33 Commissioner. Provided, however, the Commissioner is authorized to appoint a
34 member of his staff as deputy commissioner for the purpose of hearing such appeals
35 and a ruling based upon such hearing shall have the same effect as if heard by the
36 Commissioner. All persons or insureds aggrieved by any order or decision of the
37 Commissioner may appeal as is provided by the provisions of G.S. 58-2-75.

38 No later than 20 days before each hearing, the appellant shall file with the
39 Commissioner or his designated hearing officer and shall serve on the appellee a
40 written statement of his case and any evidence he intends to offer at the hearing. No
41 later than five days before such hearing, the appellee shall file with the Commissioner
42 or his designated hearing officer and shall serve on the appellant a written statement
43 of his case and any evidence he intends to offer at the hearing. Each such hearing
44 shall be recorded and transcribed. The cost of such recording and transcribing shall

1 be borne equally by the appellant and appellee; provided that upon any final
2 adjudication the prevailing party shall be reimbursed for his share of such costs by
3 the other party. Each party shall, on a date determined by the Commissioner or his
4 designated hearing officer, but not sooner than 15 days after delivery of the
5 completed transcript to the party, submit to the Commissioner or his designated
6 hearing officer and serve on the other party, a proposed order. The Commissioner or
7 his designated hearing officer shall then issue an order."

8 Section 14. G.S. 58-45-70 reads as rewritten:

9 "**§ 58-45-70. Commissioner may examine affairs of Association.**

10 The Commissioner may from time to time make an examination into the affairs of
11 the Association when he deems it to be prudent and in undertaking such examination
12 he may hold a public ~~hearing pursuant to the provisions of G.S. 58-2-50.~~ hearing.
13 The expenses of such examination shall be borne and paid by the Association."

14 Section 15. G.S. 58-46-20(c) reads as rewritten:

15 "(c) The Commissioner may designate the kinds of property insurance policies on
16 principal residences to be offered by the association, including insurance policies
17 under Article 36 of this Chapter, and the commission rates to be paid to agents or
18 brokers for these policies, if he finds, after a ~~hearing held in accordance with G.S.~~
19 ~~58-2-50,~~ hearing, that the public interest requires the designation. The provisions of
20 Chapter 150B of the General Statutes do not apply to any procedure under this
21 subsection, except that G.S. 150B-39 and G.S. 150B-41 shall apply to a hearing under
22 this subsection. Within 30 days after the receipt of notification from the
23 Commissioner of a change in designation pursuant to this subsection, the association
24 shall submit a revised plan and articles of association for approval in accordance with
25 subsection (b) of this section."

26 Section 16. G.S. 58-46-30 reads as rewritten:

27 "**§ 58-46-30. Appeals; judicial review.**

28 The association shall provide reasonable means, to be approved by the
29 Commissioner, whereby any person or insurer affected by any act or decision of the
30 administrators of the Plan or underwriting association, other than an act or decision
31 relating to the cause or amount of a claimed loss, may be heard in person or by an
32 authorized representative, before the governing board of the association or a
33 designated committee. Any person or insurer aggrieved by any decision of the
34 governing board or designated committee, may be appealed to the Commissioner
35 within 30 days from the date of such ruling or decision. The Commissioner, after
36 hearing held pursuant to the ~~procedure set forth in G.S. 58-2-50,~~ rules adopted by the
37 Commissioner, shall issue an order approving or disapproving the act or decision
38 with respect to the matter which is the subject of appeal. The Commissioner is
39 authorized to appoint a member of his staff as deputy commissioner for the purpose
40 of hearing such appeals and a ruling based on such hearing shall have the same effect
41 as if heard by the Commissioner personally. All persons or insurers or their
42 representatives aggrieved by any order or decision of the Commissioner may appeal
43 as provided by the provisions of G.S. 58-2-75.

No later than 20 days before each hearing, the appellant shall file with the Commissioner or his designated hearing officer and shall serve on the appellee a written statement of his case and any evidence he intends to offer at the hearing. No later than five days before such hearing, the appellee shall file with the Commissioner or his designated hearing officer and shall serve on the appellant a written statement of his case and any evidence he intends to offer at the hearing. Each such hearing shall be recorded and transcribed. The cost of such recording and transcribing shall be borne equally by the appellant and appellee; provided that upon any final adjudication the prevailing party shall be reimbursed for his share of such costs by the other party. Each party shall, on a date determined by the Commissioner or his designated hearing officer, but not sooner than 15 days after delivery of the completed transcript to the party, submit to the Commissioner or his designated hearing officer and serve on the other party, a proposed order. The Commissioner or his designated hearing officer shall then issue an order."

PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME CORRECTION.

Section 17. G.S. 58-30-10(14) reads as rewritten:

"(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49, 65, or 67 of this Chapter and any employer that has furnished to the Commissioner satisfactory proof of its financial responsibility under G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also includes continuing care retirement ~~centers~~ communities licensed under Article 64 of this Chapter."

Section 18. The title of Article 64 of Chapter 58 of the General Statutes reads as rewritten:

"ARTICLE 64

~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for Continuing Care Facilities: Retirement Communities."~~

Section 19. G.S. 58-64-1 reads as rewritten:

"§ 58-64-1. Definitions.

As used in this Article, unless otherwise specified:

- (1) 'Continuing care' means the furnishing to an individual other than an individual related by blood, marriage, or adoption to the person furnishing the care, of lodging together with nursing services, medical services, or other health related services, pursuant to an agreement effective for the life of the individual or for a period in excess of one year.
- (2) 'Entrance fee' means a payment that assures a resident a place in a facility for a term of years or for life.
- (3) 'Facility' means the ~~place or places~~ retirement community or communities in which a provider undertakes to provide continuing care to an individual.

- 1 (4) 'Health related services' means, at a minimum, nursing home
2 admission or assistance in the activities of daily living, exclusive of
3 the provision of meals or cleaning services.
- 4 (5) 'Living unit' means a room, apartment, cottage, or other area
5 within a facility set aside for the exclusive use or control of one or
6 more identified residents.
- 7 (6) 'Provider' means the promoter, developer, or owner of a
8 ~~continuing care~~ facility, whether a natural person, partnership, or
9 other unincorporated association, however organized, trust, or
10 corporation, of an institution, building, residence, or other place,
11 whether operated for profit or not, or any other person, that
12 solicits or undertakes to provide continuing care under a
13 continuing care facility contract, or that represents himself or itself
14 as providing continuing care or 'life care.'
- 15 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to,
16 a continuing care contract.
- 17 (8) 'Hazardous financial condition' means a provider is insolvent or in
18 eminent danger of becoming insolvent."

19 Section 20. G.S. 58-64-40(b) reads as rewritten:

20 "(b) The board of directors or other governing body of a ~~continuing care~~ facility
21 or its designated representative shall hold annual meetings with the residents of the
22 ~~continuing care~~ facility for free discussions of subjects including, but not limited to,
23 income, expenditures, and financial trends and problems as they apply to the facility
24 and discussions of proposed changes in policies, programs, and services. Residents
25 shall be entitled to at least seven days advance notice of each meeting. An agenda
26 and any materials that will be distributed by the governing body at the meetings shall
27 remain available upon request to residents."

28 Section 21. G.S. 58-64-80 reads as rewritten:

29 "§ 58-64-80. Advisory Committee.

30 There shall be a nine member Continuing Care Advisory Committee appointed by
31 the Commissioner. The Committee shall consist of at least two residents of
32 ~~continuing care communities, facilities,~~ two representatives of the North Carolina
33 Association of Nonprofit Homes for the Aging, one individual who is a certified
34 public accountant and is licensed to practice in this State, one individual skilled in
35 the field of architecture or engineering, and one individual who is a health care
36 professional."

37 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING CHANGES.**

38 Section 22. G.S. 58-36-1(2) reads as rewritten:

39 "(2) The Bureau shall provide reasonable means to be approved by the
40 Commissioner whereby any person affected by a rate or loss costs
41 made by it may be heard in person or by his authorized
42 representative before the governing committee or other proper
43 executive of the Bureau."

44 Section 23. G.S. 58-36-1(5)c. reads as rewritten:

"c. Failure or refusal by any assigned employer risk to make full disclosure to the Bureau, servicing carrier, or insurer writing a policy of information regarding the employer's true ownership, change of ownership, operations, or payroll, or any other failure to disclose fully any records pertaining to workers' compensation insurance shall be sufficient grounds for ~~the Bureau to authorize~~ the termination of the policy of that employer."

Section 24. G.S. 58-36-10 reads as rewritten:

"§ 58-36-10. Method of rate making; factors considered.

The following standards shall apply to the making and use of ~~rates~~: rates or loss costs:

- (1) Rates or loss costs shall not be excessive, inadequate or unfairly discriminatory.
- (2) Due consideration shall be given to actual loss and expense experience within this State for the most recent three-year period for which such information is available; to prospective loss and expense experience within this State; to the hazards of conflagration and catastrophe; to a reasonable margin for underwriting profit and to contingencies; to dividends, savings, or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members, or subscribers; to investment income earned or realized by insurers from their unearned premium, loss, and loss expense reserve funds generated from business within this State; to past and prospective expenses specially applicable to this State; and to all other relevant factors within this State: Provided, however, that countrywide expense and loss experience and other countrywide data may be considered only where credible North Carolina experience or data is not available.
- (3) In the case of fire insurance rates, as are subject to the ratemaking authority of the Bureau, consideration may be given to the experience of such fire insurance business during the most recent five-year period for which such experience is available. In the case of fire insurance rates that are subject to the ratemaking authority of the Bureau, consideration shall be given to the insurance public protection classifications of rural fire districts based upon standards established by the Commissioner. To the extent credits are provided for proximity to fire hydrants, the Bureau may also provide appropriate credits in public protection classifications for optional water sources, such as ponds, lakes, or other bodies of water, in accordance with standards and procedures filed with and approved by the Commissioner.
- (4) Risks may be grouped by classifications and lines of insurance for establishment of ~~rates~~ rates, loss costs, and base premiums.

1 Classification rates may be modified to produce rates for individual
2 risks in accordance with rating plans which establish standards for
3 measuring variations in hazards or expense provisions or both.
4 Such standards may measure any differences among risks that can
5 be demonstrated to have a probable effect upon losses or expenses.
6 The Bureau is directed to establish and implement a
7 comprehensive classification rating plan for motor vehicle
8 insurance under its jurisdiction within 90 days of September 1,
9 1977. No such classification plans shall base any standard or rating
10 plan for private passenger (nonfleet) motor vehicles, in whole or in
11 part, directly or indirectly, upon the age or sex of the persons
12 insured. The Bureau shall at least once every three years make a
13 complete review of the filed classification rates to determine
14 whether they are proper and supported by statistical evidence, and
15 shall at least once every 10 years make a complete review of the
16 territories for nonfleet private passenger motor vehicle insurance to
17 determine whether they are proper and reasonable.

- 18 (5) In the case of workers' compensation insurance and employers'
19 liability insurance written in connection therewith, due
20 consideration shall be given to the past and prospective effects of
21 changes in compensation benefits and in legal and medical fees
22 that are provided for in General Statutes Chapter 97."

23 Section 25. G.S. 58-36-15(a) reads as rewritten:

24 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,
25 classification plans, rating plans and rating systems used by its members. Each rate or
26 loss costs filing shall become effective on the date specified in the filing, but not
27 earlier than 105 days ~~from~~ after the date the filing is received by the Commissioner:
28 Provided that (1) rate or loss costs filings for workers' compensation insurance and
29 employers' liability insurance written in connection therewith shall not become
30 effective earlier than 120 days from the date the filing is received by the
31 Commissioner or on the date as provided under G.S. 58-36-100, whichever is earlier;
32 and (2) any filing may become effective on a date earlier than that specified in this
33 subsection upon agreement between the Commissioner and the Bureau."

34 Section 26. G.S. 58-36-15(f) reads as rewritten:

35 "(f) On or before September 1 of each calendar year the Bureau shall submit to
36 the Commissioner the experience, data, statistics, and information referred to in
37 subsection (c) of this section and required under G.S. 58-36-100 and a residual
38 market rate ~~or~~ and prospective loss costs review based on such data for workers'
39 compensation insurance and employers' liability insurance written in connection
40 therewith. Any rate or loss costs increase for such insurance that is implemented
41 pursuant to this Article shall become effective solely to such insurance as is written
42 having an inception date on or after the effective date of the rate or loss costs
43 increase."

44 Section 27. G.S. 58-36-15(g) reads as rewritten:

1 "(g) The following information must be included in policy form, rule, and rate or
2 loss costs filings under this Article and under Article 37 of this Chapter:

- 3 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,
4 accompanied by a list of those superseded; and
5 (2) A detailed description, properly referenced, of all changes in
6 policy forms, rules, prospective loss costs, and rates, including the
7 effect of each change."

8 Section 28. G.S. 58-36-30(a) reads as rewritten:

9 "(a) ~~No insurer, officer, agent or representative thereof~~ Except as permitted by
10 G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer,
11 agent, or representative of an insurer shall knowingly issue or deliver or knowingly
12 permit the issuance or delivery of any policy of insurance in this State ~~which that~~
13 does not conform to the rates, rating plans, classifications, schedules, rules and
14 standards made and filed by the Bureau. ~~However, an~~ An insurer may deviate from
15 the rates ~~promulgated~~ adopted by the Bureau ~~provided if~~ if the insurer has filed the
16 proposed deviation ~~to be applied both with the Bureau and the Commissioner, and~~
17 ~~provided the deviation is uniform in its application to all risks in the State of the~~
18 ~~class to which the deviation is to apply; and provided such deviation is approved by~~
19 ~~the Commissioner. if the proposed deviation is based on sound actuarial principles,~~
20 and if the proposed deviation is approved by the Commissioner. The Commissioner
21 ~~shall approve proposed deviations if they do not render the rates excessive,~~
22 ~~inadequate or unfairly discriminatory. If approved, the deviation may thereafter be~~
23 ~~amended, subject to the provisions of this subsection. Amendments to deviations are~~
24 subject to the same requirements as initial filings. The deviation may be terminated
25 An insurer may terminate a deviation only if the deviation has been in effect for a
26 period of six months before the effective date of the termination and the insurer
27 notifies the Commissioner of the termination no later than 15 days before the
28 effective date of the termination."

29 Section 29. G.S. 58-36-30(c) reads as rewritten:

30 "(c) ~~Any deviation with respect to workers' compensation and employers' liability~~
31 ~~insurance written in connection therewith as filed under subsection (a) of this section~~
32 ~~shall apply uniformly to all classifications. Any approved rate under subsection (b) of~~
33 ~~this section with respect to workers' compensation and employers' liability insurance~~
34 ~~written in connection therewith shall be furnished to the Bureau."~~

35 Section 30. Effective September 1, 1997, G.S. 58-36-100(a) reads as
36 rewritten:

37 "(a) ~~Nothing in this section requires the Bureau or its member insurers to refile~~
38 ~~rates previously implemented before two years after the effective date of this section.~~
39 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed~~
40 ~~and approved for its use until disapproved, or the insurer makes its own filing to~~
41 ~~change its rates, either by making an independent filing or by filing a reference filing~~
42 ~~adoption form adopting the Bureau's prospective loss costs, or modification thereof.~~
43 ~~Except as provided in subsection (m) of this section, with the initial prospective loss~~
44 ~~costs reference filing, the Bureau shall no longer develop or file any minimum~~

1 premiums, minimum premium formulas, or expense constants. If an insurer wishes to
2 amend minimum premium ~~formulas~~, formulas or expense constants, it must file the
3 minimum premium rules, formulas, or amounts it proposes to use. A copy of each
4 filing submitted to the Commissioner under subsections (e) and (g) of this section
5 shall also be sent to the Bureau."

6 Section 31. Effective September 1, 1997, G.S. 58-36-100(b)(1) reads as
7 rewritten:

8 "(1) 'Expenses'. -- That portion of a rate attributable to acquisition,
9 field supervision, collection expenses, any tax levied by the State or
10 by any political subdivision of the State, licensing costs, fees, and
11 general expenses, as determined by the insurer."

12 Section 32. Effective September 1, 1997, G.S. 58-36-100(c) reads as
13 rewritten:

14 "(c) Except as provided in subsection (m) of this section, for workers'
15 compensation and employers' liability insurance written in connection with workers'
16 compensation insurance, the Bureau shall no longer develop or file advisory final
17 rates that contain provisions for expenses (other than loss adjustment expenses) and
18 profit. The Bureau shall instead develop and file for approval with the Commissioner,
19 in accordance with this section, reference filings containing advisory prospective loss
20 costs and the underlying loss data and other supporting statistical and actuarial
21 information for any calculations or assumptions underlying these loss costs. Loss-
22 based ~~assessments, any tax levied by the State or any political subdivision of the~~
23 ~~State, licensing costs, and fees~~ assessments will be included in prospective loss costs."

24 **PART V. INSURANCE COMPANY FINANCIAL OPERATIONS.**

25 Section 33. G.S. 58-5-63(a) reads as rewritten:

26 "(a) All insurance companies making deposits under this Article are entitled to
27 interest on those ~~deposits, which shall remain in the deposit accounts.~~ deposits. The
28 right to interest is subject to a company paying its insurance policy liabilities. If any
29 company fails to pay those liabilities, interest accruing after the failure is payable to
30 the Commissioner for the payment of those liabilities under subsection (b) of this
31 section."

32 Section 34. G.S. 58-7-21(a) reads as rewritten:

33 "(a) As used in this section and in G.S. ~~58-7-26, 58-7-30, and 58-7-31:~~ 58-7-26 and
34 G.S. 58-7-30:

35 (1) 'Reinsurance' means a transfer of insurance risk from a ceding
36 insurer to an assuming insurer.

37 (2) 'Insurance risk' means an uncertainty regarding the ultimate
38 amount of any claim payment (underwriting risk) or an uncertainty
39 regarding the timing of the payments (timing risk), or both."

40 Section 35. G.S. 58-7-31(b)(3) reads as rewritten:

41 "(3) The ceding insurer is required to reimburse the reinsurer for
42 negative experience under the reinsurance agreement; except that
43 neither offsetting experience refunds against current and prior
44 years' losses under the reinsurance agreement nor payment by the

ceding insurer of an amount equal to the current and prior years' losses under the reinsurance agreement upon voluntary termination of in-force reinsurance by the ceding insurer are a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions that allow the reinsurer to reduce its risk or increase its risk charge under the reinsurance agreement."

Section 36. G.S. 58-7-31(d)(1) reads as rewritten:

"(1) Reinsurance agreements entered into after October 1, 1993, that involve the reinsurance of business issued ~~prior to~~ before the effective date of the reinsurance agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the Commissioner within 30 days after its date of execution. Each filing shall include data detailing the ~~final impact~~ financial effect of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this statute section and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Commissioner. The actuary ~~should~~ shall maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this statute: section."

Section 37. G.S. 58-7-173(12) reads as rewritten:

"(12) Secured obligations of duly constituted churches and of church-holding companies; and the cost of investments made under this subdivision shall not exceed the lesser of one percent (1%) of the insurer's admitted assets ~~of~~ or five percent (5%) of the insurer's capital and surplus."

Section 38. The catchline of G.S. 58-7-177 reads as rewritten:

"§ 58-7-177. Investments in ~~subsidiaries and affiliated corporations:~~ subsidiaries."

Section 39. G.S. 58-8-5(a)(3) reads as rewritten:

"(3) ~~Said officers shall cause said certificate to be published once a week for two consecutive weeks in a newspaper in Raleigh and in the county where the company's principal office is located, or posted at the courthouse door if no newspaper be published within the county. Said printed or posted notices shall be in such form and of such size as the Commissioner may approve, and in addition to setting forth in full the certificate required in subdivision (2) shall state that application for amending the company's charter in the manner specified has been proposed by the board of directors, and shall also state the time set for a meeting of policyholders thereby called to be held at the principal office of the company to take action on the proposed amendment.~~

~~A true copy of such notice shall be filed with the Commissioner, and also with that official who performs the functions of Commissioner in each state where the company is licensed to do business. Such publication and filing of notices shall be completed at least 30 days prior to the date set therein for the meeting of policyholders and due proof thereof shall be filed with the Commissioner at least 15 days prior to the date of such meeting. If the meeting at which the proposed amendment is to be considered is a special meeting, rather than a regular annual meeting of policyholders, such special meeting can be called only after the Commissioner has given his approval in writing, and the published notice shall show the fact of such approval, writing."~~

Section 40. G.S. 58-8-25 reads as rewritten:

"§ 58-8-25. Dividends to policyholders.

(a) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes other than life insurance or workers' compensation insurance and employers' liability insurance in connection therewith, may declare and pay a dividend to policyholders from its ~~surplus~~, unassigned surplus as reflected in the company's most recent annual or quarterly statement filed with the Commissioner, which shall include only its surplus in excess of any required minimum surplus. No such dividend shall be paid unless fair and equitable and for the best interest of the company and its policyholders. In declaring any dividend to its policyholders, any such company may make reasonable classifications of policies expiring during a fixed period, upon the basis of each general kind of insurance covered by such policies and by territorial divisions of the location of risks by states, except that in fixing the amount of dividends to be paid on each general kind of insurance, which dividends shall be uniform in rate and applicable to the majority of risks within such general kind of insurance, exceptions may be made as to any class or classes of risk and a different rate or amount of dividends paid on such class or classes if the conditions applicable to such class or classes differ substantially from the condition applicable to the kind of insurance as a whole. Every such company shall have an equal rate of dividend for the same term on all policies insuring risks in the same classification. The payment of dividends to policyholders shall not be contingent upon the maintenance or renewal of the policy. All dividends shall be paid to the policyholder unless a written assignment thereof be executed. Neither the payment of dividends nor the rate thereof may be guaranteed by any company, or its agent, prior to the declaration of the dividend by the board of directors of such company. The holders of policies of insurance issued by a company in compliance with the orders of any public official, bureau or committee, in conformity with any statutory requirement or voluntary arrangement, for the issuance of insurance to risks not otherwise acceptable to the company, may be established as a separate class of risks.

(b) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes workers' compensation insurance and employers' liability insurance in connection therewith may declare and pay a dividend to policyholders

1 from its ~~surplus~~; unassigned surplus as reflected in the company's most recent
2 statement filed with the Commissioner under G.S. 58-2-165, which shall include only
3 its surplus in excess of any required minimum surplus. No such dividend shall be
4 paid unless fair and equitable and for the best interest of the company and its
5 policyholders. In declaring any dividend to its policyholders, any such company may
6 make reasonable classifications of policies expiring during a fixed period. The
7 payment of dividends to policyholders shall not be contingent upon the maintenance
8 or renewal of the policy. All dividends shall be paid to the policyholder unless a
9 written assignment thereof be executed. Neither the payment of dividends nor the
10 rate thereof may be guaranteed by any company, or its agent, prior to the declaration
11 of the dividend by the board of directors of such company. The holders of policies of
12 insurance issued by a company in compliance with the orders of any public official,
13 bureau, or committee, in conformity with any statutory requirement or voluntary
14 arrangement, for the issuance of insurance to risks not otherwise acceptable to the
15 company, may be established as a separate class of risks."

16 Section 41. G.S. 58-9-6(a) reads as rewritten:

17 "(a) The Commissioner shall issue an intermediary license or an exemption from
18 the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has
19 complied with the requirements of this Article. A license issued to a noncorporate
20 entity authorizes all of the members of the entity and any designated employees to act
21 as intermediaries under the license, and those persons shall be named in the
22 application and any supplements. A license issued to a corporation authorizes all of
23 the officers and any designated employees and directors of the corporation to act as
24 intermediaries on behalf of the corporation, and those persons shall be named in the
25 application and any supplements."

26 Section 42. G.S. 58-9-11(b) reads as rewritten:

27 "(b) An insurer shall not engage the services of any person to act as a broker on
28 its behalf unless the person is licensed ~~under G.S. 58-9-6~~; or exempted pursuant to
29 this Article. An insurer shall not employ an individual who is employed by a broker
30 with which it transacts business, unless the broker is under common control with the
31 insurer under Article 19 of this Chapter."

32 Section 43. G.S. 58-9-21(a) reads as rewritten:

33 "(a) A reinsurer shall not engage the services of any person to act as a manager
34 on its behalf unless the person is licensed ~~under G.S. 58-9-6~~; or exempted pursuant to
35 this Article."

36 Section 44. G.S. 58-12-2(3) reads as rewritten:

37 "(3) Domestic insurer. -- Any insurance company organized in this
38 State under ~~Article 7~~ Article 7 or Article 15 of this Chapter."

39 Section 45. G.S. 58-13-10 reads as rewritten:

40 "§ 58-13-10. Scope.

41 (a) This Article applies to all domestic insurers and to all kinds of insurance
42 written by those insurers ~~under Articles 1 through 66~~ of this Chapter. Foreign
43 insurers ~~are to~~ shall comply in substance with the requirements and limitations of this
44 section. ~~This Article does not apply to variable contracts for which separate accounts~~

1 ~~are required to be maintained nor to statutory deposits that are required to be~~
2 ~~maintained by insurance regulatory agencies as a requirement for doing business in~~
3 ~~such jurisdictions.~~

4 (b) This Article does not apply to:

- 5 (1) Variable contracts for which separate accounts are required to be
6 maintained.
7 (2) Statutory deposits that are required to be maintained by insurance
8 regulatory agencies as a requirement for doing business.
9 (3) Real estate authorized under G.S. 58-7-187 and encumbered by a
10 mortgage loan with a first lien."

11 Section 46. G.S. 58-13-15 reads as rewritten:

12 "§ 58-13-15. Definitions.

13 As used in this Article:

- 14 (1) 'Assets' means all property, real or personal, tangible or intangible,
15 legal or equitable, owned by an insurer.
16 (2) 'Claimants' means any owners, beneficiaries, assignees, certificate
17 holders, or third-party beneficiaries of any insurance benefit or
18 right arising out of and within the coverage of an insurance policy
19 covered by this Article.
20 (3) 'Reserve assets' means those assets of an insurer that are
21 authorized investments for policy reserves in accordance with
22 ~~Articles 1 through 64 of this Chapter and G.S. 58-65-95. this~~
23 Chapter.
24 (4) 'Policyholder-related liabilities' means those liabilities that are
25 required to be established by an insurer for all of its outstanding
26 insurance policies in accordance with ~~Articles 1 through 64 of this~~
27 Chapter and G.S. 58-65-95. this Chapter."

28 Section 47. G.S. 58-13-20(b) reads as rewritten:

29 "(b) The Commissioner ~~has the right to~~ may examine any of such assets,
30 reinsurance agreements, or deposit arrangements at any time in accordance with his
31 authority to make examinations of insurers as conferred by other provisions of
32 ~~Articles 1 through 64 of this Chapter."~~

33 Section 48. G.S. 58-19-5(5) reads as rewritten:

- 34 "(5) 'Person' means an individual, corporation, partnership, limited
35 liability company, association, joint stock company, trust,
36 unincorporated organization, or any similar entity or any
37 combination of the foregoing acting in concert."

38 Section 49. G.S. 58-19-10(b)(1) reads as rewritten:

- 39 "(1) Invest, in common stock, preferred stock, debt obligations, and
40 other securities of one or more subsidiaries, amounts that do not
41 exceed the lesser of ten percent (10%) of such insurer's admitted
42 assets or fifty percent (50%) of such insurer's surplus as regards
43 policyholders, provided that after such investments, the insurer's
44 surplus as regards policyholders will be reasonable in relation to

the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, investments in domestic or foreign insurance subsidiaries and health maintenance organizations shall be excluded, and there shall be included: (i) total net monies or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities; and (ii) all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities, and all contributions to the capital or surplus, of a subsidiary subsequent to its acquisition or formation;"

PART VI. HANDICAPPED PERSONS.

Section 50. G.S. 168-10 reads as rewritten:

"§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.

Each handicapped person shall have the same consideration as any other person for individual accident and health insurance coverage, and no insurer, service corporation, multiple employer welfare arrangement, or health maintenance organization subject to Chapter 58 of the General Statutes solely on the basis of ~~such~~ the person's handicap, shall deny ~~such~~ coverage or benefits. The availability of ~~such~~ insurance coverage or benefits shall not be denied solely ~~due to~~ because of the handicap, provided, however, ~~that no such insurer shall be prohibited from excluding by waiver or otherwise, any pre-existing conditions from such coverage, and further provided that any such insurer may charge the appropriate premiums or fees for the risk insured on the same basis and conditions as insurance issued to other persons.~~ persons, in accordance with actuarial and underwriting principles prescribed in Chapter 58 of the General Statutes. ~~Nothing contained herein or in any other statute shall restrict or preclude any insurer governed by Chapter 58 of the General Statutes from setting and charging a premium or fee based upon the class or classes of risks and on sound actuarial and underwriting principles as determined by such insurer, or from applying its regular underwriting standards applicable to all classes of risks. The provisions of this section shall apply to both corporations governed by Chapter 58 of the General Statutes."~~

Section 51. G.S. 168-22(b) reads as rewritten:

"(b) A family care home shall be deemed a residential use of property for the purposes of determining charges or assessments imposed by political subdivisions or businesses for water, sewer, power, telephone service, cable television, garbage and trash collection, repairs or improvements to roads, streets, and sidewalks, and other services, utilities, and ~~improvements, and for purposes of classification for insurance.~~ improvements."

PART VII. AUTOMOBILE INSURANCE.

Section 52. G.S. 58-36-75(c) is repealed.

Section 53. G.S. 58-36-85(a) reads as rewritten:

1 "(a) Definitions. -- The following definitions apply in this section:

2 (1) Policy. -- A nonfleet private passenger motor vehicle liability
3 insurance policy, including ~~a policy one~~ one that provides medical
4 payments, uninsured motorist, or underinsured motorist coverage,
5 ~~whose named insured is one individual or two or more individuals~~
6 ~~who reside in the same household.~~ that is under the jurisdiction of
7 the Rate Bureau.

8 (2) Terminate. -- To cancel or refuse to renew a policy."

9 Section 54. G.S. 58-37-40(f) reads as rewritten:

10 "(f) The plan of operation shall provide that every member shall, following
11 payment of any pro rata assessment, commence recoupment of that assessment by
12 way of a surcharge on motor vehicle insurance policies issued by the member or
13 through the Facility until the assessment has been recouped. ~~Such~~ The surcharge
14 shall be a percentage of premium adopted by the Board of Governors of the Facility;
15 and the charges determined on the basis of the surcharge shall be combined with and
16 displayed as a part of the applicable premium charges. ~~Provided, however, that~~
17 ~~recoupment~~ Recoupment of losses sustained by the Facility ~~since September 1, 1977,~~
18 with respect to nonfleet private passenger motor vehicles may be recouped only by
19 surcharging policies (i) that are subject to the classification plan ~~promulgated~~
20 ~~pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have~~
21 ~~been assigned pursuant to said plan, subject to the provisions of G.S. 58-36-75; under~~
22 G.S. 58-36-65. If the amount collected during the period of surcharge exceeds
23 assessments paid by the member to the Facility, the member shall pay over the excess
24 to the Facility on a date specified by the Board of Governors. If the amount collected
25 during the period of surcharge is less than the assessments paid by the member to the
26 Facility, the Facility shall pay the difference to the member. Except as ~~hereinafter~~
27 ~~provided,~~ otherwise provided in this Article, the amount of recoupment shall not be
28 considered or treated as a rate or premium for any purpose. The Board of Governors
29 shall adopt and implement a plan for compensation of agents of Facility members
30 when recoupment surcharges are imposed; such compensation shall not exceed the
31 compensation or commission rate normally paid to the agent for the issuance or
32 renewal of the automobile liability policy issued through the North Carolina
33 Reinsurance Facility affected by ~~such~~ the surcharge; provided, however, that the
34 surcharge provided for in this section shall include an amount necessary to recover
35 the amount of the assessment to member companies and the compensation paid by
36 each member, pursuant to this section, to agents."

37 Section 55. G.S. 58-37-35(b)(8) reads as rewritten:

38 "(8) To establish fair and reasonable procedures for the sharing among
39 members of any loss on Facility business ~~which~~ that cannot be
40 recouped ~~pursuant to under G.S. 58-37-40(f) or which cannot be~~
41 ~~recouped or allocated under~~ G.S. 58-37-75, and other costs,
42 charges, expenses, liabilities, income, property and other assets of
43 the Facility and for assessing or distributing to members their
44 appropriate shares. ~~Such~~ The shares may be based on the

1 member's premiums for voluntary business for the appropriate
2 category of motor vehicle insurance or by any other fair and
3 reasonable method."

4 Section 56. G.S. 58-37-35(g)(8) reads as rewritten:

5 "(8) To establish fair and reasonable procedures for the sharing among
6 members of any loss on Facility business which cannot be
7 recouped pursuant to G.S. 58-37-40(f) or which cannot be
8 recouped or ~~allocated under G.S. 58-37-75~~, allocated and other
9 costs, charges, expenses, liabilities, income, property and other
10 assets of the Facility and for assessing or distributing to members
11 their appropriate shares. Such shares may be based on the
12 member's premiums for voluntary business for the appropriate
13 category of motor vehicle insurance or by any other fair and
14 reasonable method."

15 Section 57. G.S. 58-37-35(l) reads as rewritten:

16 "(l) The classifications, rules, rates, rating plans and policy forms used on
17 motor vehicle insurance policies reinsured by the Facility may be made by the
18 Facility or by any licensed or statutory rating organization or bureau on its behalf and
19 shall be filed with the Commissioner. The Board of Governors shall establish a
20 separate subclassification within the Facility for 'clean risks' as herein defined. For
21 the purpose of this Article, a 'clean risk' shall be any owner of a nonfleet private
22 passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal operator,
23 and each licensed operator in the owner's household have two years' driving
24 experience as licensed drivers and if none of the persons has been assigned any Safe
25 Driver Incentive Plan points under Article 36 of this Chapter during the three-year
26 period immediately preceding either (i) the date of application for a motor vehicle
27 insurance policy or (ii) the date of preparation of a renewal of a motor vehicle
28 insurance policy. Such filings may incorporate by reference any other material on
29 file with the Commissioner. Rates shall be neither excessive, inadequate nor unfairly
30 discriminatory. If the Commissioner finds, after a hearing, that a rate is either
31 excessive, inadequate or unfairly discriminatory, he shall issue an order specifying in
32 what respect it is deficient and stating when, within a reasonable period thereafter,
33 such rate shall be deemed no longer effective. Said order is subject to judicial review
34 as set out in Article 2 of this Chapter. Pending judicial review of said order, the filed
35 classification plan and the filed rates may be used, charged and collected in the same
36 manner as set out in G.S. 58-40-45 of this Chapter. Said order shall not affect any
37 contract or policy made or issued prior to the expiration of the period set forth in the
38 order. All rates shall be on an actuarially sound basis and shall be calculated, insofar
39 as is possible, to produce neither a profit nor a loss. However, the rates made by or
40 on behalf of the Facility with respect to 'clean risks', as defined above, shall not
41 exceed the rates charged 'clean risks' who are not reinsured in the Facility. The
42 difference between the actual rate charged and the actuarially sound and
43 self-supporting rates for 'clean risks' reinsured in the Facility may be recouped in
44 similar manner as assessments pursuant to ~~G.S. 58-37-40(f) or allocated pursuant to~~

1 ~~G.S. 58-37-75.~~ G.S. 58-37-40(f). Rates shall not include any factor for underwriting
2 profit on Facility business, but shall provide an allowance for contingencies. There
3 shall be a strong presumption that the rates and premiums for the business of the
4 Facility are neither unreasonable nor excessive."

5 Section 58. G.S. 58-37-75 is repealed.

6 **PART VIII. WORKERS' COMPENSATION SELF-INSURANCE.**

7 Section 59. G.S. 58-50-60 reads as rewritten:

8 **"§ 58-50-60. Rules for precertification practices.**

9 (a) This section applies to all accident and health insurers under Articles 1
10 through 64 of this Chapter, all third-party administrators and preferred provider
11 arrangements, all entities subject to Articles 65 through 67 of this Chapter, and all
12 self-funded ~~health-benefit~~ workers' compensation insurance plans.

13 (b) The Commissioner shall adopt reasonable rules governing ~~precertification~~
14 ~~practices and forms~~ utilization review and utilization review organizations ~~affiliated~~
15 that do business with the entities subject to this section."

16 Section 60. G.S. 58-50-65(a) reads as rewritten:

17 "(a) ~~Nothing~~ Except as provided in this subsection, nothing in Articles 50 through
18 55 of this Chapter ~~shall apply~~ applies to or affect any policy of liability or workers'
19 compensation insurance, ~~except that~~ insurance policy. Except for G.S. 58-50-55(a),
20 the provisions of G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55 shall this
21 Article and Articles 65 and 67 of this Chapter and any administrative rules adopted
22 under those Articles relating to preferred providers and utilization review apply to
23 policies of workers' compensation insurance; insurance policies and to individual
24 and group self-funded workers' compensation insurance plans. If there is any conflict
25 between managed care rules adopted by the Commissioner under this Chapter and
26 managed care rules adopted by the Industrial Commission under G.S. 97-25.2, the
27 Industrial Commission's rules govern. If there is any conflict between managed care
28 provisions in this Chapter and in Chapter 97 of the General Statutes with respect to
29 workers' compensation, the provisions in Chapter 97 govern."

30 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

31 Section 61. The phrase "certificate of authority" is deleted and replaced
32 by the word "license" wherever it occurs in each of the following sections of the
33 General Statutes:

34 G.S. 58-4-15. Revocation of certificate of authority.

35 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.

36 G.S. 58-7-70. Effects of redomestication.

37 G.S. 58-15-5. Definitions.

38 G.S. 58-16-35. Unauthorized Insurers Process Act.

39 G.S. 58-24-45. Organization.

40 G.S. 58-24-145. Injunction -- Liquidation -- Receivership of domestic society.

41 G.S. 58-28-5. Transacting business without certificate of authority prohibited;
42 exceptions.

- 1 G.S. 58-28-15. Validity of acts or contracts of unauthorized company shall not
2 impair obligation of contract as to the company; maintenance of
3 suits; right to defend.
- 4 G.S. 58-28-45. Uniform Unauthorized Insurers Act.
- 5 G.S. 58-30-10. Definitions.
- 6 G.S. 58-30-55. Condition on release from delinquency proceedings.
- 7 G.S. 58-30-260. Conservation of property of foreign or alien insurers found in this
8 State.
- 9 G.S. 58-33-132. Qualifications of instructors.
- 10 G.S. 58-41-55. Penalties; restitution.
- 11 G.S. 58-48-35. Powers and duties of the Association.
- 12 G.S. 58-48-45. Duties and powers of the Commissioner.
- 13 G.S. 58-57-80. Penalties.
- 14 **PART X. RISK SHARING PLAN SUNSET EXTENSION.**
- 15 Section 62. G.S. 58-42-55 reads as rewritten:
- 16 "**§ 58-42-55. Expiration.**
- 17 This Article ~~shall expire~~ expires on July 1, ~~1997~~. 1999."
- 18 **PART XI. EFFECT OF HEADINGS.**
- 19 Section 63. The headings to the parts of this act are a convenience to the
20 reader and are for reference only. The headings do not expand, limit, or define the
21 text of this act.
- 22 **PART XII. EFFECTIVE DATE.**
- 23 Section 64. Sections 30-32 of this act become effective September 1, 1997.
- 24 The remainder of this act is effective when it becomes law.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 926
Proposed Senate Committee Substitute H926-PCSA497-RN004

Short Title: Insurance Law Changes.

(Public)

Sponsors:

Referred to:

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT PERTAINING TO CHANGES IN THE INSURANCE LAWS AND
3 RELATED LAWS.

4 The General Assembly of North Carolina enacts:

5
6 CHARITABLE GIFT ANNUITIES

7 Section 1. G.S. 58-3-5 reads as rewritten:

8 "§ 58-3-5. No insurance contracts except under Articles 1 through 64 of this Chapter.

9 (a) ~~It~~ Except as provided in subsection (b) of this section, it is unlawful for any
10 company to make any contract of insurance upon or concerning any property or
11 interest or lives in this State, or with any resident thereof, or for any person as
12 insurance agent or insurance broker to make, negotiate, solicit, or in any manner aid
13 in the transaction of such insurance, unless and except as authorized under the
14 provisions of Articles 1 through 64 of this Chapter.

15 (b) A charitable organization as described in section 501(c)(3) or section 170(c) of
16 the Internal Revenue Code or an educational institution may receive a transfer of
17 property contingent upon its agreement to pay an annuity benefit of the transferor or
18 the transferor's nominee without being subject to this Chapter if the following
19 conditions are met:

20 (1) The organization or educational institution has been in active
21 operation for a least five years.

22 (2) The organization or educational institution has reinsured its
23 liability under its annuity agreements with a licensed reinsurer and

has notified the Department of Insurance of the name of the reinsurer.

(3) The annuity agreement contains the following disclosure clause:

'This annuity is not issued by an insurance company, is not subject to regulation by the State of North Carolina, and is not protected or otherwise guaranteed by any government agency or insurance guaranty fund.'

(c) For purposes of this section, 'educational institution' means a school, academy, institute, college, university, or other entity that maintains a faculty to provide instruction to students and that is principally funded on a continuing basis by appropriations from the State or a political subdivision of the State or that is subject to oversight under Chapters 115C, 115D, or 116 of the General Statutes."

INSURANCE DISCRIMINATIONS AGAINST PUBLIC OFFICIALS

Section 2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new Article to read:

"§ 58-3-27. Limitations on cancellation, nonrenewal, and refusal to insure with respect to public officials.

(a) As used in this section, 'public office' means any office filled by election by the people on a statewide, county, municipal, or district basis.

(b) An insurer that writes property or liability insurance in this State shall not:

(1) Cancel or refuse to issue or renew a policy solely on the basis that the policyholder holds a public office.

(2) Limit coverage under the policy solely on the basis that the policyholder holds a public office."

AVIATION INSURANCE

Section 3. G.S. 58-21-10(8) reads as rewritten:

"(8) 'Surplus lines insurance' means any insurance in this State of risks resident, located, or to be performed in this State, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, aviation insurance, wet marine and transportation insurance, insurance independently procured pursuant to G.S. 58-28-5, life and accident or health insurance, and annuities."

HMO INSOLVENCY CLAIMS PRIORITIES

Section 4. G.S. 58-30-220 reads as rewritten:

"§ 58-30-220. Priority of distribution.

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds shall be retained for payment before the members of the next class receive any payment. No subcategories

1 shall be established within the categories in a class. The order of distribution of
2 claims shall be:

- 3 (1) The receiver's expenses for the administration and conservation of
4 assets of the insurer.
- 5 (2) Claims or portions of claims for benefits under policies and for
6 losses incurred, including claims of third parties under liability
7 policies; claims of HMO enrollees and HMO enrollees'
8 beneficiaries; claims for unearned premiums; claims for funds or
9 consideration held under funding agreements, as defined in G.S.
10 58-7-16; claims under life insurance and annuity policies, whether
11 for death proceeds, annuity proceeds, or investment values; and
12 claims of domestic and foreign guaranty associations, including
13 claims for the reasonable administrative expenses of domestic and
14 foreign guaranty associations; but excluding claims of insurance
15 pools, underwriting associations, or those arising out of reinsurance
16 agreements, claims of other insurers for subrogation, and claims of
17 insurers for payments and settlements under uninsured and
18 underinsured motorist coverages.
- 19 (2a) For HMOs, claims of providers and participating providers, as
20 defined in G.S. 58-67-5(h) and G.S. 58-67-5(1), who are obligated
21 by statute, agreement, or court order to hold enrollees harmless
22 from liability for services provided and covered by an HMO.
- 23 (3) Claims of the federal or any state or local government or taxing
24 authority, including claims for taxes.
- 25 (4) Compensation actually owing to employees other than officers of
26 the insurer for services rendered within three months before the
27 commencement of a delinquency proceeding against the insurer
28 under this Article, but not exceeding one thousand dollars (\$1,000)
29 for each employee. In the discretion of the Commissioner, this
30 compensation may be paid as soon as practicable after the
31 proceeding has been commenced. This priority is in lieu of any
32 other similar priority that may be authorized by law as to wages or
33 compensation of those employees.
- 34 (5) Claims of general creditors, including claims of insurance pools,
35 underwriting associations, or those arising out of reinsurance
36 agreements; claims of other insurers for subrogation; and claims of
37 insurers for payments and settlements under uninsured and
38 underinsured motorist coverages.

39 Section 5. G.S. 58-67-145 reads as rewritten:

40 "§ 58-67-145. Rehabilitation, liquidation, or conservation of health maintenance
41 organization.

42 Any rehabilitation, liquidation or conservation of a health maintenance
43 organization shall be deemed to be the rehabilitation, liquidation, or conservation of
44 an insurance company and shall be conducted under the supervision of the

1 Commissioner pursuant to the law governing the rehabilitation, liquidation, or
2 conservation of insurance companies, except that the provisions of Articles 48 and 62
3 of this Chapter shall not apply to health maintenance organizations. The
4 Commissioner may apply for an order directing him to rehabilitate, liquidate, or
5 conserve a health maintenance organization upon one or more grounds set out in
6 Article 30 of this Chapter or when in his opinion the continued operation of the
7 health maintenance organization would be hazardous either to the enrollees or to the
8 people of this State.

9 ~~For the purpose of determining the priority of distribution of general assets, claims~~
10 ~~of enrollees and claims of enrollees' beneficiaries have the same claims' priorities as~~
11 ~~established by G.S. 58-30-220, for policyholders and beneficiaries of other insurance~~
12 ~~companies. Any provider who is obligated by statute, agreement, or court order to~~
13 ~~hold enrollees harmless from liability for services provided and covered by an HMO~~
14 ~~has a priority of distribution next subordinate to that of policyholders under G.S.~~
15 ~~58-30-220, so that his status is after claims for unearned premiums, but before claims~~
16 ~~of general creditors. Providers who are not obligated to hold enrollees harmless shall~~
17 ~~be treated as general creditors and shall pursue claims against enrollees until final~~
18 ~~resolution of the estate of the liquidated HMO."~~

19

20 NCIUA TECHNICAL CORRECTION

21 Section 6. G.S. 58-45-10 reads as rewritten:

22 "§ 58-45-10. North Carolina Insurance Underwriting Association created.

23 There is hereby created the North Carolina Insurance Underwriting Association,
24 consisting of all insurers authorized to write and engage in writing within this State,
25 on a direct basis, essential property insurance, except town and county mutual
26 insurance associations and assessable mutual companies as authorized by G.S. 58-7-
27 75(5)b, 58-7-75(5)d, and 58-7-75(7)b and except an insurer who only writes insurance
28 in this State on property exempted from taxation by the provisions of ~~G.S. 105-296~~
29 ~~and 105-297. G.S. 105-278.1 through G.S. 105-278.8.~~ Every such insurer shall be a
30 member of the Association and shall remain a member of the Association so long as
31 the Association is in existence as a condition of its authority to continue to transact
32 the business of insurance in this State."

33

34 CHILDREN'S HEALTH INSURANCE PORTABILITY

35 Section 7. G.S. 58-68-30(c)(1) reads as rewritten:

36 "(1) Creditable coverage defined. -- For the purposes of this Article,
37 "creditable coverage" means, with respect to an individual,
38 coverage of the individual under any of the following:
39 a. A self-funded employer group health plan under the
40 Employee Retirement Income Security Act of 1974.
41 b. Group or individual health insurance coverage.
42 c. Part A or part B of title XVIII of the Social Security Act.
43 d. Title XIX of the Social Security Act, other than coverage
44 consisting solely of benefits under section 1928.

- 1 e. Chapter 55 of title 10, United States Code.
2 f. A medical care program of the Indian Health Service or of a
3 tribal organization.
4 g. A State health benefits risk pool.
5 h. A health plan offered under chapter 89 of title 5, United
6 States Code.
7 i. A public health plan (as defined in federal regulations).
8 j. A health benefit plan under section 5(e) of the Peace Corps
9 Act (22 U.S.C. § 2504(e)).
10 k. The Health Insurance Program for Children established in
11 Part 8 of Chapter 108A of the General Statutes, or any
12 successor program.
13 'Creditable coverage' does not include coverage consisting solely
14 of coverage of excepted benefits."
15

16 CONDOMINIUM INSURANCE/INDIVIDUAL UNITS

17 Section 8.(a) G.S. 47C-3-113(a) reads as rewritten:

18 "(a) Commencing not later than the time of the first conveyance of a unit to a
19 person other than a declarant, the association shall maintain, to the extent available:

- 20 (1) Property insurance on the common elements ~~and units~~ insuring
21 against all risks of direct physical loss commonly insured against
22 including fire and extended coverage perils. The total amount of
23 insurance after application of any deductibles shall be not less than
24 eighty percent (80%) of the replacement cost of the insured
25 property at the time the insurance is purchased and at each
26 renewal date, exclusive of land, excavations, foundations and other
27 items normally excluded from property policies; and
28 (2) Liability insurance in reasonable amounts, covering all occurrences
29 commonly insured against death, bodily injury and property
30 damage arising out of or in connection with the use, ownership, or
31 maintenance of the common elements.

32 (b) G.S. 47C-3-113(b) reads as rewritten:

33 "~~(b) The insurance maintained under subdivision (a)(1)~~ In the case of a building
34 containing units having horizontal boundaries described in the declaration, the
35 insurance maintained under subdivision (a)(1), to the extent reasonably available,
36 shall include the units, but need not include improvements and betterments installed
37 by unit owners."

38 (c) G.S. 47C-3-113(c) reads as rewritten:

39 "(c) If the insurance described in subsection (a) or (b) of this section is not
40 reasonably available, the association promptly shall cause notice of that fact to be
41 hand-delivered or sent prepaid by United States mail to all unit owners. The
42 declaration may require the association to carry any other insurance, and the
43 association in any event may carry any other insurance it deems appropriate to
44 protect the association or the unit owners."

SMALL EMPLOYER GROUP HEALTH INSURANCE

Section 9. G.S. 58-50-110(14) reads as rewritten:

"(14) 'Late enrollee' means ~~an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer after the end of the initial enrollment period provided under the terms of the health benefit plan in effect at the time the employee first became eligible;~~ has the same meaning as defined in G.S. 58-68-30(b)(2); provided that the initial enrollment period shall be a period of at least 30 consecutive calendar days. ~~However, In addition to the special enrollment provisions in G.S. 58-68-30(f),~~ an eligible employee or dependent shall not be considered a late enrollee under a small employer health benefit plan if:

a. ~~The individual was covered under a public or private health benefit plan that provided, at the time the individual was eligible to enroll, benefits equal to or exceeding the same required level of benefits in the basic or standard health care plans adopted pursuant to G.S. 58-50-120 and either the individual:~~

1. ~~Lost coverage under another health plan as a result of termination of employment, termination of a spouse's health plan coverage, or the death of a spouse or divorce and requests enrollment in a health benefit plan within 30 days after termination of coverage provided under another health plan; or~~

2. ~~Stated, in writing, during the enrollment period that coverage under another employer health benefit plan was the reason for declining coverage;~~

a.3,4. Repealed by Session Laws 1993, c. 529, s. 3.3.

b. The individual elects a different health benefit plan offered through the Alliance or by the small employer during an open enrollment period;

e. ~~An eligible employee requests enrollment within 30 days of becoming an employee of a member small employer;~~

d. A court has ordered coverage be provided for a spouse or minor child under a covered employee's health benefit plan and the request for enrollment for a spouse is made within 30 days after issuance of the court order. A minor child shall be enrolled in accordance with the requirements of G.S. 58-51-120; G.S. 58-51-120; or

e. ~~The individual or employee enrollee makes a request for enrollment of the spouse or child within 30 days after the individual's or employee's marriage or the birth, adoption, or placement for adoption of a child."~~

Section 10. G.S. 58-50-130(g) reads as rewritten:

"(g) A small employer carrier shall make the information and documentation described in subsection (e) of this section available to the Commissioner upon request. Except in cases of violations of this Act, the information is proprietary and trade secret information and is not subject to disclosure by the Commissioner to persons outside of the Department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction. Nothing in this section affects the Commissioner's authority to approve rates before their use under G.S. 58-65-60(e) or G.S. 58-67-50(c)."

Section 11. G.S. 58-50-135(a) reads as rewritten:

"(a) Every small employer carrier shall elect either to become a risk-assuming carrier and comply with the provisions of G.S. 58-50-140 or become a reinsuring carrier and comply with the provisions of G.S. 58-50-145. The election shall be binding for a five-year period except that ~~the~~ a newly licensed carrier's initial election ~~shall be made within 60 days after January 1, 1992, and~~ shall be made for two years. The Commissioner may, for good cause, permit a carrier to modify its election during the five-year period. All carriers under common ownership or control must make the same election in this State; provided, however, that the Commissioner may, for good cause, permit an affiliated carrier to make a separate election."

MEDICARE SUPPLEMENT INSURANCE

Section 12. G.S. 58-54-25 reads as rewritten:

"§ 58-54-25. Disclosure standards.

(a) In order to provide for full and fair disclosure in the sale of policies, no policy or certificate shall be delivered in this State unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The Commissioner shall prescribe the format and content of the outline of coverage required by subsection (a) of this section. For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. Such outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the exceptions, reductions, and limitations contained in the policy;
- (3) A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums; and

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The Commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the Commissioner may require by rule that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the Commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare, but in no event later than the time of policy delivery.

(d) The Commissioner may adopt rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than: Medicare supplement policies; disability income policies; basic, catastrophic, or major medical expense policies; or single premium, nonrenewable policies.

(e) The Commissioner may further adopt rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health insurance policies, subscriber contracts, or certificates by persons eligible for Medicare.

(f) No insurer shall use attained age as a structure or methodology for its Medicare supplement insurance rates unless the structure or methodology is fully disclosed to the applicant at the time of application or to the insured at the time of delivery if the purchase is by mail order. All types of solicitation materials shall clearly indicate that the premiums are based on attained age, which means that those premiums will increase each year. The Commissioner shall prescribe by rule the format and content of the attained age rating disclosure notice. The notice shall include:

(1) A statement that attained age rating means that rates increase as the insured ages or by the age group in which the insured is.

(2) An illustration based on actual attained age that states the dollar amount of premium increase for the insured over a period of not less than 10 policy years and that displays the life expectancy of the insured at the beginning of the period.

(3) A statement that premiums for other Medicare supplement policies that are on issue age bases do not increase as the insured ages.

(4) A statement that other Medicare supplement policies that are on issue age bases should be compared to policies on attained age bases."

Section 13. Article 54 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

1 "§ 58-54-45. By reason of disability.

2 In addition to any rule adopted under this Article that is directly or indirectly
3 related to open enrollment, an insurer shall at least make standardized Medicare
4 Supplement Plan A available to persons eligible for Medicare by reason of disability
5 before age 65. This action shall be taken without regard to medical condition, claims
6 experience, or health status. To be eligible, a person must submit an application
7 during the six-month period beginning with the first month the person first enrolls in
8 Medicare Part B.

9 "§ 58-54-50. Rules for compliance with federal law and regulations.

10 The Commissioner may adopt rules necessary to conform Medicare supplement
11 policies and certificates to the requirements of federal law and regulations, including:

- 12 (1) Requiring refunds or credits if the policies or certificates do not
13 meet loss ratio requirements.
14 (2) Establishing a uniform methodology for calculating and reporting
15 loss ratios.
16 (3) Assuring public access to policies, premiums, and loss ratio
17 information of issuers of Medicare supplement insurance.
18 (4) Establishing standards for Medicare Select policies and
19 certificates."

20
21 **LIFE INSURANCE ILLUSTRATIONS**

22 Section 14. G.S. 58-60-5 reads as rewritten:

23 **"§ 58-60-5. Scope of Article; exemptions.**

24 (a) Except as hereafter exempted, otherwise provided in this Article, this Article
25 shall apply applies to any solicitation, negotiation or procurement of life insurance
26 occurring within this State. This Article shall apply applies to any issuer of a life
27 insurance contract contract, including fraternal benefit societies.

28 (b) Unless otherwise specifically included, this Article shall does not apply to:

- 29 (1) Annuities,
30 (2) Credit life insurance,
31 (3) Group life insurance,
32 (4) Life insurance policies issued in connection with pension and
33 welfare plans as defined by and ~~which~~ that are subject to the
34 federal Employee Retirement Income Security Act of 1974
35 (ERISA),
36 (5) Variable life insurance under which the death benefits and cash
37 values vary in accordance with unit values of investments held in a
38 separate account.

39 (c) The policy summary in this Article is not required for policies that are sold
40 subject to rules adopted by the Commissioner for life insurance illustrations."

41
42 **CIVIL PENALTY LAW CHANGES**

43 Section 15. G.S. 58-2-70 reads as rewritten:

1 "§ 58-2-70. Civil penalties or restitution for violations; ~~summary suspension of license~~
2 ~~or certificate; administrative procedure.~~

3 (a) This section applies to any person who is subject to licensure or certification
4 under the provisions of Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this
5 Chapter.

6 (b) Whenever the Commissioner has reason to believe that any person has
7 violated any of the provisions of the statutes cited in subsection (a) of this section,
8 this Chapter, and the violation subjects the license or certification of that person to
9 suspension or revocation, ~~or whenever the Commissioner has reason to believe that~~
10 ~~any person has violated Article 63 of this Chapter, the Commissioner may issue and~~
11 ~~serve upon that person a written statement of charges and a written notice of hearing,~~
12 ~~to be held at a time and place fixed in the notice. The date for the hearing shall not~~
13 ~~be less than 10 days after the date of service. It shall be sufficient to give such notice~~
14 ~~either by delivering it to the person charged or by sending the notice to the last~~
15 ~~known address of that person by certified mail, return receipt requested. At the time~~
16 ~~and place fixed for the hearing the person charged shall have an opportunity to~~
17 ~~answer the charges against him and present evidence on his behalf. Upon good cause~~
18 ~~shown, the Commissioner may permit any adversely affected person to intervene,~~
19 ~~appear, and be heard at the hearing by counsel or in person. The Commissioner may~~
20 ~~consolidate a hearing under this section with a hearing allowed under G.S. 58-63-25~~
21 ~~where there is common subject matter involved and subject to procedural~~
22 ~~requirements set out in both sections being followed. the Commissioner may, after~~
23 ~~notice and opportunity for a hearing, proceed under the appropriate subsections of~~
24 ~~this section.~~

25 (c) ~~In any case where a hearing pursuant to subsection (b) of this section results in~~
26 ~~the findings by the Commissioner of~~ If, under subsection (b) of this section, the
27 Commissioner finds a violation of any of the provisions of the statutes cited in
28 subsection (a) of this section, and the violation subjects the license or certification of
29 that person to suspension or revocation, ~~or findings by the Commissioner of a~~
30 ~~violation of Article 63 of this Chapter, the Commissioner may, in addition to or in~~
31 ~~lieu~~ instead of suspending or revoking the license or certification, order the payment
32 of a monetary penalty as provided in subsection (d) of this section or ~~apply to~~
33 petition the Superior Court of Wake County for an order directing payment of
34 restitution as provided in subsection (e) of this section, or both. Each day during
35 which a violation occurs ~~shall constitute~~ constitutes a separate offense. ~~violation.~~

36 (d) ~~Upon a finding by the Commissioner of a violation as specified in~~ If the
37 Commissioner orders the payment of a monetary penalty pursuant to subsection (c)
38 of this section, the ~~Commissioner shall direct the payment of a penalty of not shall~~
39 not be less than one hundred dollars (\$100.00) nor more than one thousand dollars
40 (\$1,000). In determining the amount of the penalty, the Commissioner shall consider
41 the degree and extent of harm caused by the violation, the amount of money that
42 inured to the benefit of the violator as a result of the violation, whether the violation
43 was committed willfully, and the prior record of the violator in complying or failing
44 to comply with laws, rules, or orders applicable to the violator. The penalty shall be

1 payable to the Commissioner, who shall then forward the clear proceeds of which to
2 the State Treasurer for deposit in the General Fund of the State. Payment of the
3 civil penalty under this section shall be in addition to payment of any other penalty
4 for a violation of the criminal laws of this State.

5 (e) Upon ~~application~~ petition of the Commissioner ~~and a finding by the court of a~~
6 ~~violation as specified in subsection (e) of this section,~~ the court may order the person
7 who committed ~~the~~ a violation specified in subsection (c) of this section to make
8 restitution in an amount that would make whole any person harmed by the violation.
9 The petition may be made at any time and also in any appeal of the Commissioner's
10 order.

11 (f) Restitution to any State agency for extraordinary administrative expenses
12 incurred in the investigation and hearing of the violation may also be ordered by the
13 court in such amount that would reimburse the agency for the expenses.

14 (g) Nothing in this section ~~shall prevent~~ prevents the Commissioner from
15 negotiating a mutually acceptable agreement with any person as to the status of the
16 person's license or certificate or as to any civil penalty or restitution.

17 (h) ~~Notwithstanding subsection (b) of this section, if the Commissioner finds that~~
18 ~~the public health, safety, or welfare requires emergency action and incorporates this~~
19 ~~finding in his order, summary suspension of a license or certificate may be ordered~~
20 ~~effective on the date specified in the order or on service of the certified copy of the~~
21 ~~order at the last known address of the licensee, whichever is later, and effective~~
22 ~~during the proceedings to suspend, revoke, or refuse renewal provided for in~~
23 ~~subsection (b) of this section. The proceedings shall be promptly commenced and~~
24 ~~determined. Unless otherwise specifically provided for, all administrative proceedings~~
25 under this Chapter are governed by Chapter 150B of the General Statutes. Appeals
26 of the Commissioner's orders under this section shall be governed by G.S. 58-2-75."
27

28 NOTICES FROM INDIVIDUAL LICENSEES

29 Section 16. Article 2 of Chapter 58 of the General Statutes is amended by
30 adding a new section to read:

31 "§ 58-2-69. Notification of criminal convictions and changes of address; service of
32 notice.

33 (a) As used in this section:

34 (1) 'License' includes any license, certificate, registration, or permit
35 issued under this Chapter.

36 (2) 'Licensee' means any person who holds a license.

37 (b) Every applicant for a license shall inform the Commissioner of the applicant's
38 residential address. Every licensee shall give written notification to the
39 Commissioner of any change of the licensee's residential address within 10 business
40 days after the licensee moves into the licensee's new residence. This requirement
41 applies if the change of residential address is by governmental action and there has
42 been no actual change of residence location; in which case the licensee must notify
43 the Commissioner within 10 business days after the effective date of the change. A

1 violation of this subsection is not a ground for revocation, suspension, or nonrenewal
2 of the license or for the imposition of any other penalty by the Commissioner.

3 (c) If a licensee is convicted in any court of competent jurisdiction for any crime
4 or offense other than a motor vehicle infraction, the licensee shall notify the
5 Commissioner within 10 days after the date of the conviction. As used in this
6 subsection, 'conviction' includes an adjudication of guilt, a plea of guilty, or a plea of
7 nolo contendere.

8 (d) Notwithstanding any other provision of law, whenever the Commissioner is
9 authorized or required to give any notice under this Chapter to a licensee, the notice
10 may be given personally or by sending the notice by first-class mail to the licensee at
11 the address that the licensee has provided to the Commissioner under subsection (b)
12 of this section.

13 (e) The giving of notice by mail under subsection (d) of this section is complete
14 upon the expiration of four days after the deposit of the notice in the post office.
15 Proof of the giving of notice by mail may be made by the certificate of any employee
16 of the Department."

17 18 **INSURANCE AGENTS, BROKERS, AND ADJUSTERS**

19 Section 17. G.S. 58-33-25(h) reads as rewritten:

20 "(h) A partnership or corporation that negotiates or solicits insurance may be
21 licensed as an agent, broker, or limited ~~representative provided that it maintains a~~
22 ~~place of business in this State.~~ representative. Every member of the partnership and
23 every officer, director, stockholder, and employee of the corporation personally
24 engaged in this State in soliciting or negotiating policies of insurance shall be
25 registered with the Commissioner and each such member, officer, director,
26 stockholder or employee shall also qualify as an individual licensee. The partnership
27 or corporate licensee shall within 30 days notify the Commissioner of any addition to
28 or deletion from the list of registered individuals."

29 Section 18. G.S. 58-33-30(j) reads as rewritten:

30 "(j) Reciprocity Provision. -- To the extent that other states that provide for the
31 licensing and regulation of and payment of commissions to agents, limited
32 representatives, or brokers, waive restrictions on the basis of reciprocity with respect
33 to North Carolina licensees applying for or holding nonresident licenses in such those
34 states, all such the same restrictions on licensees from such those states applying for
35 or holding North Carolina nonresident licenses shall be waived."

36 Section 19. G.S. 58-33-70 reads as rewritten:

37 "**§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

38 (a) It shall be unlawful and cause for revocation of license for a licensed adjuster
39 to engage in the practice of law.

40 (b) On behalf and on request of an insurer by which ~~he is appointed or for which~~
41 ~~he is licensed, any~~ an agent or limited representative is appointed, the agent or
42 limited representative may from time to time act as an adjuster and investigate and
43 report upon claims without being required to be licensed as an adjuster, provided: In
44 no event may any adjuster. No agent or limited representative shall adjust any losses

1 ~~in any amount where his the agent's or representative's~~ remuneration for the sale of
2 insurance is in any way dependent upon the adjustment of ~~such those~~ losses.

3 (c) Upon the filing of the application for ~~the license as adjuster and an adjuster's~~
4 ~~license~~, the advance payment of the examination fee ~~and upon fee~~, and the filing with
5 the Commissioner of a certificate signed by the employer of the applicant certifying
6 ~~that the applicant is an individual of good character and is employed by the signer of~~
7 ~~the certificate and will operate as a student or learner under the instruction and~~
8 ~~general supervision of a licensed adjuster, and that the employer will be responsible~~
9 ~~for the adjustment acts of the learner during the learning period, applicant's~~
10 ~~employer~~, the Commissioner may issue ~~to the applicant~~ a learner's permit authorizing
11 the applicant to act as an adjuster for a learning period of 90 days without a
12 requirement of any other ~~or additional license; provided that not~~ license. Not more
13 than one ~~learner~~ learner's permit shall ever be issued to one individual. The
14 employer's certificate required by this subsection shall certify that:

- 15 (1) The applicant is an individual of good character.
- 16 (2) The applicant is employed by the signer of the certificate.
- 17 (3) The applicant will operate as a student or learner under the
18 instruction and general supervision of a licensed adjuster.
- 19 (4) The employer will be responsible for the adjustment acts of the
20 applicant during the learning period.

21 ~~(d) No license shall be required of an adjuster licensed as such in another state for~~
22 ~~the adjustment in this State of a single loss, or of losses arising out of a catastrophe~~
23 ~~common to all such losses; provided that such adjuster notifies the Commissioner in~~
24 ~~writing prior to the adjusting of such loss or losses.~~

25 (e) The Commissioner may permit an experienced adjuster, who regularly adjusts
26 in another state and who is licensed in ~~such the~~ other state (if ~~such that~~ that state requires
27 a license), to act as an adjuster in this State without a North Carolina ~~license; license~~
28 only for an insurance company authorized to do business in this State, for emergency
29 insurance adjustment work, for a period of not exceeding 30 days, to be determined
30 by the Commissioner, done for an employer who is an adjuster licensed by this State
31 or who is a regular employer of one or more adjusters licensed by this State;
32 provided that the employer shall furnish to the Commissioner a notice in writing
33 immediately upon the beginning of any such emergency insurance adjustment work.
34 As used in this subsection, 'emergency insurance adjustment work' includes, but is
35 not limited to, (i) adjusting of a single loss or losses arising out of an event or
36 catastrophe common to all of those losses or (ii) adjusting losses in any area declared
37 to be a state of disaster by the Governor under G.S. 166A-6 or by the President of the
38 United States under applicable federal law.

39 (f) The Commissioner may permit an experienced motor vehicle damage
40 appraiser who is regularly appraising in another state and who is licensed in such
41 other state (if ~~such that~~ that state requires a license) to act as a motor vehicle damage
42 appraiser in this State without a North Carolina license for emergency motor vehicle
43 damage appraisal work for a period not exceeding 30 days done for an employer who

1 notifies the Commissioner, in writing, at the beginning of the period of emergency
2 appraisal work and who is:

- 3 (1) An insurance adjuster licensed by this State;
- 4 (2) A motor vehicle damage appraiser licensed by this State;
- 5 (3) A regular employer of one or more insurance adjusters licensed by
6 this State; or
- 7 (4) A regular employer of one or more motor vehicle damage
8 appraisers licensed by this State."

9 Section 20. G.S. 58-33-130(c) reads as rewritten:

10 "~~(c) On and after January 1, 1992, any individual agent or broker desiring to~~
11 ~~renew an appointment or license shall offer evidence satisfactory to the~~
12 ~~Commissioner that he has complied with the continuing professional education~~
13 ~~requirements approved by the Commissioner. The license of any person who fails to~~
14 ~~comply with the continuing education requirements under this section shall lapse.~~
15 The Commissioner may, for good cause shown, grant extensions of time to licensees
16 to comply with these requirements."

17 Section 21. G.S. 58-33-130(h) reads as rewritten:

18 "(h) Any licensee ~~who~~ who, after obtaining an extension under subsection (c) of
19 this section, offers evidence satisfactory to the Commissioner ~~on forms prescribed by~~
20 ~~the Commissioner that he~~ that the licensee has satisfactorily completed the required
21 continuing professional education courses ~~shall be deemed to have complied is in~~
22 compliance with this section."

23

24 TOWN AND COUNTY MUTUALS FINANCIAL REPORTS

25 Section 22. G.S. 58-2-165 reads as rewritten:

26 "**§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with**
27 **Commissioner.**

28 (a) Every insurance company shall file in the Commissioner's office, on or before
29 March 1 of each year, a statement showing the business standing and financial
30 condition of the company, association, or order on the preceding December 31,
31 signed and sworn to by the chief managing agent or officer thereof, before the
32 Commissioner or some officer authorized by law to administer oaths. Provided, the
33 Commissioner may, for good and sufficient cause shown by an applicant company,
34 extend the filing date of the company's annual statement, for a reasonable period of
35 time, not to exceed 30 days. In addition, the Commissioner may require any
36 insurance company, association, or order to file its statement semiannually, quarterly,
37 or ~~monthly~~. monthly, except that a town or county mutual, organized under G.S. 58-
38 7-75(5)d., is required to file only an annual statement if for the preceding year it had
39 a direct written premium of less than one hundred fifty thousand dollars (\$150,000)
40 and fewer than 400 policyholders.

41 (b) The Commissioner may require statements under this section, G.S. 58-2-170,
42 and G.S. 58-2-190 to be filed in a format that can be read by electronic data
43 processing equipment.

1 (c) All statements filed under this section must be prepared in accordance with
2 the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the
3 NAIC Accounting Practices and Procedures Manual and on the NAIC Model
4 Financial Statement Blank, unless further modified by the Commissioner as the
5 Commissioner considers to be appropriate."
6

7 **BAIL BONDSMEN AND RUNNERS**

8 Section 23. G.S. 58-71-50 reads as rewritten:

9 **"§ 58-71-50. Qualification for bail bondsmen and runners.**

10 (a) An applicant for a license as a bail bondsman or ~~runner, must~~ runner shall
11 furnish the Commissioner with a complete set of the applicant's fingerprints and a
12 recent passport size full-face photograph of the applicant. The applicant's fingerprints
13 shall be certified by an authorized law-enforcement officer. The fingerprints of every
14 applicant shall be forwarded to the State Bureau of Investigation for a search of the
15 applicant's criminal history record file, if any. If warranted, the State Bureau of
16 Investigation shall forward a set of the fingerprints to the Federal Bureau of
17 Investigation for a national criminal history record check. An applicant shall pay the
18 cost of the State and any national criminal history record check of the applicant.

19 (b) Every applicant for a license under this Article as a bail bondsman or runner
20 must meet all of the following qualifications:

- 21 (1) Be 18 years of age or over.
- 22 (2) Be a resident of this State.
- 23 ~~(3) Be a person of good moral character and not have been convicted~~
24 ~~of a felony or any crime involving moral turpitude.~~
- 25 (4) Have knowledge, training, or experience of sufficient duration and
26 extent to provide the competence necessary to fulfill the
27 responsibilities of a licensee.
- 28 (5) Have no outstanding bail bond obligations.
- 29 (6) Have no current or prior violations of any provision of this Article
30 or of Article 26 of Chapter 15A of the General Statutes or of any
31 similar provision of law of any other state.
- 32 (7) Not have been in any manner disqualified under the laws of this
33 State or any other state to engage in the bail bond business."

34 Section 24. G.S. 58-71-80 reads as rewritten:

35 **"§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew licenses.**

36 (a) The Commissioner may deny, suspend, ~~or revoke~~ revoke, or refuse to renew
37 any license ~~issued~~ under this Article for any of the following causes:

- 38 (1) For any cause sufficient to deny, suspend, or revoke the license
39 under any other provision of this Article.
- 40 ~~(2) Violation of any laws of this State relating to bail~~ A conviction of
41 any misdemeanor committed in the course of dealings under the
42 license issued by the Commissioner.
- 43 (3) Material misstatement, misrepresentation or fraud in obtaining the
44 license.

- (4) Misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.
- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) Conviction of a felony regardless of the time the conviction occurred and regardless of whether the conviction resulted from conduct in or related to the bail bond business. crime involving moral turpitude.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or who has been in any manner disqualified under the bail bond laws of this State or any other state, whereby the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (15) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.

~~(b) The Commissioner, in lieu of revoking or suspending a license in accordance with the provisions of this Article, may, in any one proceeding, by order, require the licensee to pay to the school fund in the licensee's county of residence a civil penalty of two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure to pay the penalty within 20 days after the order is mailed, postage prepaid, registered and addressed to the licensee's last known place of business, unless the order is~~

1 ~~stayed by an order of the court of competent jurisdiction or unless the Commissioner~~
2 ~~has already suspended or revoked the license of the licensee, the Commissioner may~~
3 ~~revoke the license or may suspend the license for any period.~~

4 (b) The Commissioner shall deny, revoke, or refuse to renew any license under
5 this Article if the applicant or licensee is or has ever been convicted of a felony."

6 Section 25. G.S. 58-71-71(a) reads as rewritten:

7 "(a) In order to be eligible to take the examination required to be licensed as a
8 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 20
9 12 hours of education in subjects pertinent to the duties and responsibilities of a
10 runner or bail bondsman, including all laws and regulations related to being a runner
11 or bail bondsman."

12 Section 26. G.S. 58-71-71(b) reads as rewritten:

13 "(b) Each year every licensee shall complete at least 40 six hours of continuing
14 education in subjects related to the duties and responsibilities of a runner or bail
15 bondsman before renewal of the license. This continuing education shall not include
16 a written or oral examination. A person who receives his first license on or after
17 January 1 of any year does not have to comply with this subsection until the period
18 between his first and second license renewals."

19 Section 27. G.S. 58-71-165 reads as rewritten:

20 **"§ 58-71-165. Monthly report required.**

21 Each professional bail bondsman and surety bondsman shall file with the
22 Commissioner ~~of Insurance~~ a written report in form prescribed by the Commissioner
23 regarding all bail bonds on which the bondsman is liable as of the first day of each
24 month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the
25 principal sum of the bond, (iv) the State or local official to whom given, and (v) the
26 fee charged for the bonding service in each instance. The report shall be filed on or
27 before the fifteenth day of each month. ~~Within the same time, a copy of this written~~
28 ~~report must also be filed with the clerk of superior court in any county in which the~~
29 ~~bondsman is obligated on bail bonds.~~ Any person who knowingly and willfully
30 falsifies a report required by this section is guilty of a Class I felony."

31 Section 28. G.S. 58-71-71(e) reads as rewritten:

32 ~~"(e) Any person who falsely represents to the Commissioner that the requirements~~
33 ~~of this section have been met is subject, after notice and opportunity for hearing, to~~
34 ~~G.S. 58-2-70. The license of any person who fails to comply with the continuing~~
35 ~~education requirements under this section shall lapse. The Commissioner may, for~~
36 ~~good cause shown, grant extensions of time to licensees to comply with these~~
37 ~~requirements. Any licensee who, after obtaining an extension under this subsection,~~
38 ~~offers evidence satisfactory to the Commissioner that the licensee has satisfactorily~~
39 ~~completed the required continuing professional education courses is in compliance~~
40 ~~with this section."~~

41 Section 29. G.S. 58-71-85(a) reads as rewritten:

42 "(a) The suspension or revocation of, or refusal to renew, any license under G.S.
43 58-71-80 shall be in accordance with the provisions of ~~Article 3A~~ of Chapter 150B of
44 the General Statutes."

Section 30. G.S. 58-71-20 reads as rewritten:

"§ 58-71-20. Surrender of defendant by surety; when premium need not be returned.

At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed; in such case the full premium shall be ~~returned~~ returned within 72 hours after the surrender. The defendant may be surrendered without the return of premium for the bond if ~~he has been guilty of nonpayment of premium, changing address without notifying his bondsman, concealing himself, leaving the jurisdiction of the court without the permission of his bondsman or violating his obligation to the court.~~ the defendant does any of the following:

- (1) Willfully fails to pay the premium to the surety or willfully fails to make a premium payment under the agreement specified in G.S. 58-71-167.
- (2) Changes his or her address without notifying the surety before the address change.
- (3) Physically hides from the surety.
- (4) Leaves the State without the permission of the surety.
- (5) Violates any order of the court."

Section 31. G.S. 58-71-95(5) reads as rewritten:

- "(5) Accept anything of value from a principal or from anyone on behalf of a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond; provided that the bondsman shall be permitted to accept collateral security or other indemnity from a principal or from anyone on behalf of a principal. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond and shall be returned ~~upon~~ within 72 hours after final termination of liability on the bond."

VIATICAL SETTLEMENT PROVIDERS

Section 32. G.S. 58-58-42(j) reads as rewritten:

"(j) Authority to Adopt Standards. -- The Commissioner may:

- (1) Adopt rules to implement this section.
- (2) Establish standards for evaluating reasonableness of payments under contracts. This authority includes regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy.
- (3) Establish appropriate registration and other regulatory requirements for brokers.
- (4) ~~Require a bond."~~

1 HOME INSPECTORS

2 Section 33. G.S. 143-151.45 reads as rewritten:

3 "§ 143-151.45. Definitions.

4 The following definitions apply in this Article:

- 5 (1) Associate home inspector. -- An individual who is affiliated with or
6 employed by a licensed home inspector to conduct a home
7 inspection of a residential building on behalf of the licensed home
8 inspector.
- 9 (2) Board. -- The North Carolina Home Inspector Licensure Board.
- 10 (3) Compensation. -- A fee or anything else of value.
- 11 (4) Home inspection. -- A written evaluation of ~~one~~ two or more of
12 the following components of a residential building: heating system,
13 cooling system, plumbing system, electrical system, structural
14 components, foundation, roof, masonry structure, exterior and
15 interior components, or any other related residential housing
16 component.
- 17 (5) Home inspector. -- An individual who engages in the business of
18 performing home inspections for compensation.
- 19 (6) Residential building. -- A structure intended to be, or that is in
20 fact, used as a residence by one or more individuals."

21 Section 34. G.S. 143-151.52 reads as rewritten:

22 "§ 143-151.52. Requirements to be licensed as an associate home inspector.

23 To be licensed as an associate home inspector, a person must do all of the
24 following:

- 25 (1) Submit a completed application to the Board upon a form
26 provided by the Board.
- 27 (2) Pass a licensing examination prescribed by the Board.
- 28 (3) Pay the applicable fees.
- 29 (4) Have a high school diploma or its equivalent.
- 30 (5) Be employed by or affiliated with or intend to be employed by or
31 affiliated with a licensed home inspector and submit a sworn
32 statement by ~~the~~ that licensed home inspector ~~with whom the~~
33 ~~applicant is or intends to be affiliated~~ certifying that the licensed
34 home inspector will actively supervise and train the applicant."

35 Section 35. G.S. 143-151.53 reads as rewritten:

36 "§ 143-151.53. Notification ~~of~~ to applicant following evaluation of application.

37 ~~The Board must review each application for a license submitted to it and must~~
38 ~~notify each applicant that the application is either accepted or rejected. The Board~~
39 ~~must send the notification of acceptance or rejection within 30 days of receiving the~~
40 ~~application. If the Board rejects an application, the notice sent to the applicant must~~
41 ~~state the reasons for the rejection. If the Board finds that the applicant has not met~~
42 fully the requirements for licensing, the Board shall refuse to issue the license and
43 shall notify in writing the applicant of the denial, stating the grounds of the denial.
44 The application may also be denied for any reason for which a license may be

1 suspended or revoked or not renewed under G.S. 143-151.56. Within 30 days after
2 service of the notification, the applicant may make a written demand upon the Board
3 for a review to determine the reasonableness of the Board's action. The review shall
4 be completed without undue delay, and the applicant shall be notified promptly in
5 writing as to the outcome of the review. Within 30 days after service of the
6 notification as to the outcome, the applicant may make a written demand upon the
7 Board for a hearing under Article 3A of Chapter 150B of the General Statutes if the
8 applicant disagrees with the outcome."

9 Section 36. G.S. 143-151.56 reads as rewritten:

10 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

11 (a) The Board may deny or refuse to issue or renew a license, may suspend or
12 revoke a license, or may impose probationary conditions on a license if the license
13 holder or applicant for licensure has engaged in any of the following conduct:

14 (1) Employed fraud, deceit, or misrepresentation in obtaining or
15 attempting to obtain or renew a license.

16 (2) Committed an act of malpractice, gross negligence, or
17 incompetence in the practice of home inspections.

18 (3) Without having a current license, either performed home
19 inspections for compensation or claimed to be licensed.

20 (4) Engaged in conduct that could result in harm or injury to the
21 public.

22 (5) Been convicted of or pled guilty or nolo contendere to any ~~crime~~
23 misdemeanor involving moral turpitude, turpitude or to any felony.

24 (6) Been adjudicated ~~insane or incompetent and has not presented~~
25 proof of recovery from the condition, incompetent.

26 (7) Engaged in any act or practice that violates any of the provisions of
27 this Article or any rule issued by the Board, or aided, abetted, or
28 assisted any person in a ~~violation~~ violation of any of the provisions
29 of this Article.

30 (b) A denial of licensure, refusal to renew, suspension, revocation, or imposition
31 of probationary conditions upon a license holder may be ordered by the Board after a
32 hearing held in accordance with Article 3A of Chapter 150B of the General Statutes
33 and rules adopted by the Board. An application may be made to the Board for
34 reinstatement of a revoked license if the revocation has been in effect for at least one
35 year."

36 37 **MANUFACTURED HOME DEALERS**

38 Section 37. Article 9A of Chapter 143 of the General Statutes is
39 amended by adding a new section to read:

40 **"§ 143-143.21B. Dealer cancellation; deposit refund.**

41 A dealer shall refund to a buyer the full amount of a deposit on the purchase of a
42 manufactured home if the buyer has fulfilled his obligations under the purchase
43 agreement and the dealer cancels the purchase at any time."

1 EFFECT OF HEADINGS

2 Section 38. The headings to the parts of this act are a convenience to the
3 reader and are for reference only. The headings do not expand, limit, or define the
4 text of this act.

5

6 EFFECTIVE DATES

7 Section 39. This section and Sections 1, 3, 4, 5, 6, 7, 10, 11, 14, 15, 17, 18,
8 22, 27, 29, 32, 33, and 34 of this act are effective when they become law; provided
9 that the disclosure requirement in G.S. 58-3-5, as enacted in Section 1 of this act,
10 applies only to annuity agreements issued on or after October 1, 1998. Section 19 of
11 this act becomes effective September 1, 1998. Sections 2, 9, 12, 13, 20, 21, 23, 24, 25,
12 28, 30, 31, 35, 36, and 37 of this act become effective October 1, 1998. Sections 8, 16,
13 and 26 of this act become effective January 1, 1999.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

S

2

SENATE BILL 843

Pensions & Retirement and Insurance Committee Substitute Adopted 4/29/97

Short Title: Insurance Technical Changes.

(Public)

Sponsors:

Referred to:

April 15, 1997

1 A BILL TO BE ENTITLED

2 AN ACT TO REPEAL OBSOLETE LAWS AND MAKE TECHNICAL AND
3 CLARIFYING AMENDMENTS AND CORRECTIONS IN VARIOUS
4 INSURANCE STATUTES; AND TO EXTEND THE EXPIRATION DATE OF
5 THE 1986 RISK SHARING PLAN LAW.

6 The General Assembly of North Carolina enacts:

7 PART I. REPEALS OF OBSOLETE PROVISIONS.

8 Section 1. G.S. 58-2-120, 58-3-125, 58-6-10, 58-7-150, and 58-41-35 are
9 repealed.

10 Section 2. Article 47 of Chapter 58 of the General Statutes, the North
11 Carolina Health Care Excess Liability Fund, which includes G.S. 58-47-1, 58-47-5, 58-
12 47-10, 58-47-15, 58-47-20, 58-47-25, 58-47-30, 58-47-35, 58-47-40, 58-47-45, and 58-47-
13 50, is repealed.

14 Section 3. Article 68 of Chapter 58 of the General Statutes, the North
15 Carolina Health Insurance Trust Commission, which includes G.S. 58-68-1, 58-68-5,
16 58-68-10, 58-68-15, and 58-68-20, is repealed.

17 Section 4. G.S. 120-123(55) and (65) are repealed.

18 Section 5. G.S. 58-36-15(e) reads as rewritten:

19 "(e) The Commissioner may require the filing of supporting data including:

- 20 (1) The Bureau's interpretation of any statistical data relied upon;
21 (2) Descriptions of the methods employed in setting the rates;
22 (3) Analysis of the incurred losses submitted on an accident year or
23 policy year basis into their component parts; to wit, paid losses,

reserves for losses and loss expenses, and reserves for losses incurred but not reported;

(4) The total number and dollar amount of paid claims;

(5) The total number and dollar amount of case basis reserve claims;

(6) Earned and written premiums at current rates by rating territory;

(7) Earned premiums and incurred losses according to classification plan categories; and

(8) Income from investment of unearned premiums and loss and loss expense reserves generated by business within this State.

~~Provided, however, that with respect to business written prior to January 1, 1980, the Commissioner shall not require the filing of such supporting data which has not been required to be recorded under statistical plans approved by the Commissioner."~~

Section 6. G.S. 58-3-115 reads as rewritten:

"§ 58-3-115. Twisting with respect to insurance policies; penalties.

No insurer shall make or issue, or cause to be issued, any written or oral statement that willfully misrepresents or willfully makes an incomplete comparison as to the terms, conditions, or benefits contained in any policy of insurance for the purpose of inducing or attempting to induce a policyholder in any way to terminate or surrender, exchange, or convert any insurance policy. Any person who violates this section is subject to the provisions of ~~G.S. 58-2-70, 58-3-90 through 58-3-100, and 58-3-125.~~ G.S. 58-2-70 or G.S. 58-3-100."

Section 7. G.S. 58-30-75(7) reads as rewritten:

"(7) Without first obtaining the written consent of the ~~Commissioner pursuant to G.S. 58-7-150,~~ Commissioner, the insurer has (i) transferred, or attempted to transfer, in a manner contrary to Article 19 of this Chapter, substantially its entire property or business, or (ii) has entered into any transaction, the effect of which is to merge, consolidate, or reinsure substantially its entire property or business in or with the property or business of any other person."

Section 8. G.S. 58-41-40(a) reads as rewritten:

"(a) There is no liability on the part of and no cause of action for defamation or invasion of privacy arises against any insurer or its authorized representatives, agents, or employees, or any licensed insurance agent or broker, for any communication or statement made, unless shown to have been made in bad faith with malice, in any of the following:

(1) A written notice of cancellation under ~~G.S. 58-41-15,~~ G.S. 58-41-15 or of nonrenewal under G.S. 58-41-20, ~~or of cessation of business through an agency under G.S. 58-41-35,~~ specifying the reasons ~~therefor,~~ for cancellation.

(2) Communications providing information pertaining to ~~such cancellation, nonrenewal, or cessation of business through an agency,~~ the cancellation or nonrenewal.

- (3) Evidence submitted at any court proceeding, administrative hearing, or informal inquiry in which ~~such cancellation, nonrenewal, or cessation of business through an agency~~ the cancellation or nonrenewal is an issue."

PART II. AMENDMENTS NECESSARY BECAUSE OF 1995 REWRITE OF G.S. 58-2-50.

Section 9. G.S. 58-34-2(j) reads as rewritten:

"(j) The Commissioner shall disapprove any such contract that:

- (1) Does not contain the required contract provisions specified in subsection (d) of this section;
- (2) Subjects the insurer to excessive charges for expenses or commission;
- (3) Vests in the MGA any control over the management of the affairs of the insurer to the exclusion of the board of directors of the insurer;
- (4) Is entered into with any person if the person or its officers and directors are of known bad character or have been affiliated directly or indirectly through ownership, control, management, reinsurance transactions, or other insurance or business relationships with any person known to have been involved in the improper manipulation of assets, accounts, or reinsurance; or
- (5) Is determined by the Commissioner to contain provisions that are not fair and reasonable to the insurer.

Failure of the Commissioner to disapprove any such contract within 30 days after the contract has been filed with the Commissioner constitutes the Commissioner's approval of the contract. An insurer may continue to accept business from ~~such~~ the person until the Commissioner disapproves the contract. Any disapproval shall be in writing. The Commissioner may, after ~~a hearing held under G.S. 58-2-50,~~ notice and an opportunity for a hearing, withdraw approval of any contract the Commissioner has previously approved upon finding that the basis of the original approval no longer exists or that the contract has, in actual operation, shown itself to be subject to disapproval on any of the grounds in this subsection."

Section 10. G.S. 58-34-15(b) reads as rewritten:

"(b) If the Commissioner disapproves any management contract, ~~notice of such action shall be given to the insurer assigning the reasons therefor in writing.~~ the Commissioner shall give notice of, and written reasons for, the disapproval to the insurer. The Commissioner shall grant any party to the contract a hearing upon ~~request according to G.S. 58-2-50.~~ request."

Section 11. G.S. 58-40-100 reads as rewritten:

"§ 58-40-100. Request for review of rate, rating plan, rating system or underwriting rule.

(a) Any person aggrieved by any rate charged, rating plan, rating system, or underwriting rule followed or adopted by an insurer or rating organization may request in writing that the insurer or rating organization ~~to~~ review the manner in

1 which the rate, plan, system, or rule has been applied with respect to insurance
2 ~~afforded him. Such request may be made by his authorized representative, and shall~~
3 ~~be in writing. the person's insurance. The person's authorized representative may~~
4 make the request. If the request is not granted within 30 days after it is made, the
5 requestor may treat it as rejected. Any person aggrieved by the action of an insurer
6 or rating organization in refusing the review requested or in failing or refusing to
7 grant all or part of the relief requested, may file a written complaint and request for
8 hearing with the Commissioner, and shall specify the grounds relied upon. If the
9 Commissioner has information concerning a similar ~~complaint~~ complaint, the
10 Commissioner may deny the hearing. If the Commissioner believes that probable
11 cause for the complaint does not exist or that the complaint is not made in good
12 faith, ~~he the Commissioner~~ shall deny the hearing. If the Commissioner finds that the
13 complaint charges a violation of this Article and that the complainant would be
14 aggrieved if the violation is proven, ~~he the Commissioner~~ shall proceed as provided
15 in G.S. ~~58-2-50 or~~ 58-2-70.

16 (b) Repealed by Session Laws 1985 (Regular Session, 1986), c. 1027, s. 15."

17 Section 12. G.S. 58-42-1 reads as rewritten:

18 "**§ 58-42-1. Establishment of plans.**

19 If the Commissioner finds, after a ~~hearing held in accordance with G.S. 58-2-50,~~
20 hearing, that in all or any part of this State, any amount or kind of insurance
21 authorized by G.S. 58-7-15(4) through G.S. 58-7-15(22) is not readily available in the
22 voluntary market and that the public interest requires the availability of that
23 insurance, ~~he the Commissioner~~ may either:

- 24 (1) Promulgate plans to provide insurance coverage for any risks in
25 this State that are, based on reasonable underwriting standards,
26 entitled to obtain but are otherwise unable to obtain coverage; or
27 (2) Call upon insurers to prepare plans for ~~his~~ the Commissioner's
28 approval."

29 Section 13. G.S. 58-45-50 reads as rewritten:

30 "**§ 58-45-50. Appeal from acts of Association to Commissioner; appeal from**
31 **Commissioner to superior court.**

32 Any person or any insurer who may be aggrieved by an act, ruling or decision of
33 the Association other than an act, ruling or decision relating to the cause or amount
34 of a claimed loss, may, within 30 days after ~~such ruling~~ the ruling, appeal to the
35 Commissioner. Any hearings held by the Commissioner ~~pursuant to such an~~ under
36 the appeal shall be in accordance with ~~the procedure set forth in G.S. 58-2-50; rules~~
37 adopted by the Commissioner. Provided, however, the Commissioner is authorized
38 to appoint a member of ~~his the Commissioner's~~ staff as deputy commissioner for the
39 purpose of hearing ~~such~~ those appeals and a ruling based upon ~~such the~~ the hearing shall
40 ~~have~~ has the same effect as if heard by the Commissioner. All persons or insureds
41 aggrieved by any order or decision of the Commissioner may appeal as ~~is~~ provided by
42 ~~the provisions of in~~ G.S. 58-2-75.

43 No later than 20 days before each hearing, the appellant shall file with the
44 Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellee a

1 written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant
2 intends to offer at the hearing. No later than five days before ~~such~~ the hearing, the
3 appellee shall file with the Commissioner or ~~his~~ the designated hearing officer and
4 shall serve on the appellant a written statement of ~~his~~ the appellee's case and any
5 evidence ~~he~~ that the appellee intends to offer at the hearing. Each ~~such~~ hearing shall
6 be recorded and transcribed. ~~The cost of such recording and transcribing shall be~~
7 ~~borne equally by the appellant and appellee; provided that~~ The appellant and
8 appellee shall share the cost of recording and transcribing equally; however, upon any
9 final adjudication the prevailing party shall be reimbursed for his that party's share of
10 such the costs by the other party. Each party shall, on a date determined by the
11 Commissioner or his the designated hearing officer, but not sooner than 15 days after
12 delivery of the completed transcript to the party, submit to the Commissioner or his
13 the designated hearing officer and serve on the other party, a proposed order. The
14 Commissioner or his the designated hearing officer shall then issue an order."

15 Section 14. G.S. 58-45-70 reads as rewritten:

16 "**§ 58-45-70. Commissioner may examine affairs of Association.**

17 The Commissioner may from time to time make an examination into the affairs of
18 the Association when ~~he~~ the Commissioner deems it to be prudent and in
19 ~~undertaking such examination he~~ prudent, and as part of the examination the
20 Commissioner may hold a public hearing pursuant to the provisions of G.S. 58-2-50:
21 hearing. The expenses of such examination shall be borne and paid by the
22 Association. The Association shall pay the expenses of the examination."

23 Section 15. G.S. 58-46-20(c) reads as rewritten:

24 "(c) The Commissioner may designate the kinds of property insurance policies on
25 principal residences to be offered by the association, including insurance policies
26 under Article 36 of this Chapter, and the commission rates to be paid to agents or
27 brokers for these policies, if ~~he~~ the Commissioner finds, after a ~~hearing held in~~
28 ~~accordance with G.S. 58-2-50, hearing,~~ hearing, that the public interest requires the
29 designation. The provisions of Chapter 150B of the General Statutes do not apply to
30 any procedure under this subsection, except that G.S. 150B-39 and G.S. 150B-41 shall
31 apply to a hearing under this subsection. Within 30 days after the receipt of
32 notification from the Commissioner of a change in designation ~~pursuant to~~ under this
33 subsection, the association shall submit a revised plan and articles of association for
34 approval in accordance with subsection (b) of this section."

35 Section 16. G.S. 58-46-30 reads as rewritten:

36 "**§ 58-46-30. Appeals; judicial review.**

37 The association shall provide reasonable means, to be approved by the
38 Commissioner, whereby any person or insurer affected by any act or decision of the
39 administrators of the Plan or underwriting association, other than an act or decision
40 relating to the cause or amount of a claimed loss, may be heard in person or by an
41 authorized representative, before the governing board of the association or a
42 designated committee. Any person or insurer aggrieved by any decision of the
43 governing board or designated committee, may be appealed to the Commissioner
44 within 30 days from the date of ~~such~~ the ruling or decision. The Commissioner, after

1 hearing held ~~pursuant to the procedure set forth in G.S. 58-2-50,~~ under rules adopted
2 by the Commissioner, shall issue an order approving or disapproving the act or
3 decision with respect to the matter ~~which~~ that is the subject of appeal. The
4 Commissioner ~~is authorized to may~~ appoint a member of ~~his~~ the Commissioner's staff
5 as deputy commissioner for the purpose of hearing ~~such~~ the appeals and a ruling
6 based on ~~such~~ the hearing ~~shall have~~ has the same effect as if heard by the
7 ~~Commissioner personally.~~ Commissioner. All persons or insurers or their
8 representatives aggrieved by any order or decision of the Commissioner may appeal
9 as provided ~~by the provisions of in~~ in G.S. 58-2-75.

10 No later than 20 days before each hearing, the appellant shall file with the
11 Commissioner or ~~his~~ the designated hearing officer and shall serve on the appellee a
12 written statement of ~~his~~ the appellant's case and any evidence ~~he~~ that the appellant
13 intends to offer at the hearing. No later than five days before ~~such~~ the hearing, the
14 appellee shall file with the Commissioner or ~~his~~ the designated hearing officer and
15 shall serve on the appellant a written statement of ~~his~~ the appellee's case and any
16 evidence ~~he~~ that the appellee intends to offer at the hearing. Each ~~such~~ hearing
17 shall be recorded and transcribed. ~~The cost of such recording and transcribing shall~~
18 ~~be borne equally by the appellant and appellee; provided that.~~ The appellant and
19 appellee shall share the cost of recording and transcribing equally; however, upon any
20 final adjudication the prevailing party shall be reimbursed for ~~his~~ that party's share of
21 ~~such~~ the costs by the other party. Each party shall, on a date determined by the
22 Commissioner or ~~his~~ the designated hearing officer, but not sooner than 15 days after
23 delivery of the completed transcript to the party, submit to the Commissioner or ~~his~~
24 the designated hearing officer and serve on the other party, a proposed order. The
25 Commissioner or ~~his~~ the designated hearing officer shall then issue an order."

26 **PART III. CONTINUING CARE RETIREMENT COMMUNITY NAME**
27 **CORRECTION.**

28 Section 17. G.S. 58-30-10(14) reads as rewritten:

29 "(14) 'Insurer' means any entity licensed under Articles 7, 16, 26, 49,
30 65, or 67 of this Chapter and any employer that has furnished to
31 the Commissioner satisfactory proof of its financial responsibility
32 under G.S. 97-93(a)(2). For purposes of this Article, 'insurer' also
33 includes continuing care retirement ~~centers~~ communities licensed
34 under Article 64 of this Chapter."

35 Section 18. The title of Article 64 of Chapter 58 of the General Statutes
36 reads as rewritten:

37 "ARTICLE 64.

38 ~~"Registration, Disclosure, Contract, and Financial Monitoring Requirements for~~
39 ~~Continuing Care Facilities: Retirement Communities."~~

40 Section 19. G.S. 58-64-1 reads as rewritten:

41 **"§ 58-64-1. Definitions.**

42 As used in this Article, unless otherwise specified:

43 (1) 'Continuing care' means the furnishing to an individual other
44 than an individual related by blood, marriage, or adoption to the

1 person furnishing the care, of lodging together with nursing
2 services, medical services, or other health related services,
3 ~~pursuant to~~ under an agreement effective for the life of the
4 individual or for a period ~~in excess of~~ longer than one year.

5 (2) 'Entrance fee' means a payment that assures a resident a place in
6 a facility for a term of years or for life.

7 (3) 'Facility' means the ~~place or places~~ retirement community or
8 communities in which a provider undertakes to provide
9 continuing care to an individual.

10 (4) 'Health related services' means, at a minimum, nursing home
11 admission or assistance in the activities of daily living, exclusive
12 of the provision of meals or cleaning services.

13 (5) 'Living unit' means a room, apartment, cottage, or other area
14 within a facility set aside for the exclusive use or control of one
15 or more identified residents.

16 (6) 'Provider' means the promoter, developer, or owner of a
17 ~~continuing care~~ facility, whether a natural person, partnership, or
18 other unincorporated association, however organized, trust, or
19 corporation, of an institution, building, residence, or other place,
20 whether operated for profit or not, or any other person, that
21 solicits or undertakes to provide continuing care under a
22 continuing care facility contract, or that represents ~~himself~~
23 himself, herself, or itself as providing continuing care or 'life
24 care.'

25 (7) 'Resident' means a purchaser of, a nominee of, or a subscriber to,
26 a continuing care contract.

27 (8) 'Hazardous financial condition' means a provider is insolvent or
28 in eminent danger of becoming insolvent."

29 Section 20. G.S. 58-64-40(b) reads as rewritten:

30 "(b) The board of directors or other governing body of a ~~continuing care~~ facility
31 or its designated representative shall hold annual meetings with the residents of the
32 ~~continuing care~~ facility for free discussions of subjects including, but not limited to,
33 income, expenditures, and financial trends and problems as they apply to the facility
34 and discussions of proposed changes in policies, programs, and services. Residents
35 shall be entitled to at least seven days advance notice of each meeting. An agenda
36 and any materials that will be distributed by the governing body at the meetings shall
37 remain available upon request to residents."

38 Section 21. G.S. 58-64-80 reads as rewritten:

39 "§ 58-64-80. Advisory Committee.

40 There shall be a nine member Continuing Care Advisory Committee appointed by
41 the Commissioner. The Committee shall consist of at least two residents of
42 ~~continuing care communities, facilities,~~ two representatives of the North Carolina
43 Association of Nonprofit Homes for the Aging, one individual who is a certified
44 public accountant and is licensed to practice in this State, one individual skilled in

1 the field of architecture or engineering, and one individual who is a health care
2 professional."

3 **PART IV. WORKERS' COMPENSATION LOSS COSTS CONFORMING CHANGES.**

4 Section 22. G.S. 58-36-1(2) reads as rewritten:

5 "(2) The Bureau shall provide reasonable means to be approved by
6 the Commissioner whereby any person affected by a rate or loss
7 costs made by it may be heard in person or by ~~his~~ the person's
8 authorized representative before the governing committee or
9 other proper executive of the Bureau."

10 Section 23. G.S. 58-36-1(5)c. reads as rewritten:

11 "c. Failure or refusal by any assigned employer risk to make full
12 disclosure to the Bureau, servicing carrier, or insurer writing
13 a policy of information regarding the employer's true
14 ownership, change of ownership, operations, or payroll, or
15 any other failure to disclose fully any records pertaining to
16 workers' compensation insurance shall be sufficient grounds
17 for ~~the Bureau to authorize~~ the termination of the policy of
18 that employer."

19 Section 24. G.S. 58-36-10 reads as rewritten:

20 "**§ 58-36-10. Method of rate making; factors considered.**

21 The following standards ~~shall~~ apply to the making and use of ~~rates~~ rates or loss
22 costs:

23 (1) Rates or loss costs shall not be excessive, inadequate or unfairly
24 discriminatory.

25 (2) Due consideration shall be given to actual loss and expense
26 experience within this State for the most recent three-year period
27 for which ~~such~~ that information is available; to prospective loss
28 and expense experience within this State; to the hazards of
29 conflagration and catastrophe; to a reasonable margin for
30 underwriting profit and to contingencies; to dividends, savings, or
31 unabsorbed premium deposits allowed or returned by insurers to
32 their policyholders, members, or subscribers; to investment
33 income earned or realized by insurers from their unearned
34 premium, loss, and loss expense reserve funds generated from
35 business within this State; to past and prospective expenses
36 specially applicable to this State; and to all other relevant factors
37 within this State: Provided, however, that countrywide expense
38 and loss experience and other countrywide data may be
39 considered only where credible North Carolina experience or
40 data is not available.

41 (3) In the case of fire insurance rates, as are subject to the ratemaking
42 authority of the Bureau, consideration may be given to the
43 experience of such fire insurance business during the most recent
44 five-year period for which ~~such~~ that experience is available. In

1 the case of fire insurance rates that are subject to the ratemaking
2 authority of the Bureau, consideration shall be given to the
3 insurance public protection classifications of rural fire districts
4 based upon standards established by the Commissioner. To the
5 extent credits are provided for proximity to fire hydrants, the
6 Bureau may also provide appropriate credits in public protection
7 classifications for optional water sources, such as ponds, lakes, or
8 other bodies of water, in accordance with standards and
9 procedures filed with and approved by the Commissioner.

10 (4) Risks may be grouped by classifications and lines of insurance for
11 establishment of ~~rates~~ rates, loss costs, and base premiums.
12 Classification rates may be modified to produce rates for
13 individual risks in accordance with rating plans ~~which~~ that
14 establish standards for measuring variations in hazards or expense
15 provisions or both. ~~Such~~ Those standards may measure any
16 differences among risks that can be demonstrated to have a
17 probable effect upon losses or expenses. The Bureau ~~is directed~~
18 ~~to~~ shall establish and implement a comprehensive classification
19 rating plan for motor vehicle insurance under its jurisdiction
20 within 90 days of September 1, 1977. No such classification plans
21 shall base any standard or rating plan for private passenger
22 (nonfleet) motor vehicles, in whole or in part, directly or
23 indirectly, upon the age or sex of the persons insured. The
24 Bureau shall at least once every three years make a complete
25 review of the filed classification rates to determine whether they
26 are proper and supported by statistical evidence, and shall at least
27 once every 10 years make a complete review of the territories for
28 nonfleet private passenger motor vehicle insurance to determine
29 whether they are proper and reasonable.

30 (5) In the case of workers' compensation insurance and employers'
31 liability insurance written in connection therewith, due
32 consideration shall be given to the past and prospective effects of
33 changes in compensation benefits and in legal and medical fees
34 that are provided for in General Statutes Chapter 97."

35 Section 25. G.S. 58-36-15(a) reads as rewritten:

36 "(a) The Bureau shall file with the Commissioner copies of the rates, loss costs,
37 classification plans, rating plans and rating systems used by its members. Each rate or
38 loss costs filing shall become effective on the date specified in the filing, but not
39 earlier than 105 days ~~from~~ after the date the filing is received by the Commissioner:
40 Provided that (1) rate or loss costs filings for workers' compensation insurance and
41 employers' liability insurance written in connection therewith shall not become
42 effective earlier than 120 days from the date the filing is received by the
43 Commissioner or on the date as provided ~~under~~ in G.S. 58-36-100, whichever is

1 earlier; and (2) any filing may become effective on a date earlier than that specified
2 in this subsection upon agreement between the Commissioner and the Bureau."

3 Section 26. G.S. 58-36-15(f) reads as rewritten:

4 "(f) On or before September 1 of each calendar year the Bureau shall submit to
5 the Commissioner the experience, data, statistics, and information referred to in
6 subsection (c) of this section and required under G.S. 58-36-100 and a residual
7 market rate ~~or~~ and prospective loss costs review based on ~~such~~ those data for
8 workers' compensation insurance and employers' liability insurance written in
9 connection therewith. Any rate or loss costs increase for ~~such~~ that insurance that is
10 implemented ~~pursuant to~~ under this Article shall become effective solely to ~~such~~
11 ~~insurance as is written having~~ insurance with an inception date on or after the
12 effective date of the rate or loss costs increase."

13 Section 27. G.S. 58-36-15(g) reads as rewritten:

14 "(g) The following information must be included in policy form, rule, and rate or
15 loss costs filings under this Article and under Article 37 of this Chapter:

- 16 (1) A detailed list of the rates, loss costs, rules, and policy forms filed,
17 accompanied by a list of those superseded; and
18 (2) A detailed description, properly referenced, of all changes in
19 policy forms, rules, prospective loss costs, and rates, including the
20 effect of each change."

21 Section 28. G.S. 58-36-30(a) reads as rewritten:

22 "(a) ~~No insurer, officer, agent or representative thereof~~ Except as permitted by
23 G.S. 58-36-100 for workers' compensation loss costs filings, no insurer and no officer,
24 agent, or representative of an insurer shall knowingly issue or deliver or knowingly
25 permit the issuance or delivery of any policy of insurance in this State which that
26 does not conform to the rates, rating plans, classifications, schedules, rules and
27 standards made and filed by the Bureau. However, an An insurer may deviate from
28 the rates promulgated adopted by the Bureau provided if the insurer has filed the
29 proposed deviation to be applied both with the Bureau and the Commissioner, and
30 provided the deviation is uniform in its application to all risks in the State of the
31 class to which the deviation is to apply; and provided such deviation is approved by
32 the Commissioner. if the proposed deviation is based on sound actuarial principles,
33 and if the proposed deviation is approved by the Commissioner. The Commissioner
34 shall approve proposed deviations if they do not render the rates excessive,
35 inadequate or unfairly discriminatory. If approved, the deviation may thereafter be
36 amended, subject to the provisions of this subsection. Amendments to deviations are
37 subject to the same requirements as initial filings. The deviation may be terminated
38 An insurer may terminate a deviation only if the deviation has been in effect for a
39 period of six months before the effective date of the termination and the insurer
40 notifies the Commissioner of the termination no later than 15 days before the
41 effective date of the termination."

42 Section 29. G.S. 58-36-30(c) reads as rewritten:

43 "(c) ~~Any deviation with respect to workers' compensation and employers' liability~~
44 ~~insurance written in connection therewith as filed under subsection (a) of this section~~

1 ~~shall apply uniformly to all classifications.~~ Any approved rate under subsection (b) of
2 this section with respect to workers' compensation and employers' liability insurance
3 written in connection therewith shall be furnished to the Bureau."

4 Section 30. Effective September 1, 1997, G.S. 58-36-100(a) reads as
5 rewritten:

6 ~~"(a) Nothing in this section requires the Bureau or its member insurers to refile~~
7 ~~rates previously implemented before two years after the effective date of this section.~~
8 ~~Any member insurer of the Bureau may continue to use all rates and deviations filed~~
9 ~~and approved for its use until disapproved, or the insurer makes its own filing to~~
10 ~~change its rates, either by making an independent filing or by filing a reference filing~~
11 ~~adoption form adopting the Bureau's prospective loss costs, or modification thereof.~~
12 Except as provided in subsection (m) of this section, ~~with the initial prospective loss~~
13 ~~costs reference filing,~~ the Bureau shall no longer develop or file any minimum
14 premiums, minimum premium formulas, or expense constants. If an insurer wishes to
15 amend minimum premium ~~formulas,~~ formulas or expense constants, it must file the
16 minimum premium rules, formulas, or amounts it proposes to use. A copy of each
17 filing submitted to the Commissioner under subsections (e) and (g) of this section
18 shall also be sent to the Bureau."

19 Section 31. Effective September 1, 1997, G.S. 58-36-100(b)(1) reads as
20 rewritten:

21 "(1) 'Expenses'. -- That portion of a rate attributable to acquisition,
22 field supervision, collection expenses, any tax levied by the State
23 or by any political subdivision of the State, licensing costs, fees,
24 and general expenses, as determined by the insurer."

25 Section 32. Effective September 1, 1997, G.S. 58-36-100(c) reads as
26 rewritten:

27 "(c) Except as provided in subsection (m) of this section, for workers'
28 compensation and employers' liability insurance written in connection with workers'
29 compensation insurance, the Bureau shall no longer develop or file advisory final
30 rates that contain provisions for expenses (other than loss adjustment expenses) and
31 profit. The Bureau shall instead develop and file for approval with the Commissioner,
32 in accordance with this section, reference filings containing advisory prospective loss
33 costs and the underlying loss data and other supporting statistical and actuarial
34 information for any calculations or assumptions underlying these loss costs. Loss-
35 based ~~assessments, any tax levied by the State or any political subdivision of the~~
36 ~~State, licensing costs, and fees~~ assessments will be included in prospective loss costs."

37 **PART V. INSURANCE COMPANY FINANCIAL OPERATIONS.**

38 Section 33. G.S. 58-5-63(a) reads as rewritten:

39 "(a) All insurance companies making deposits under this Article are entitled to
40 interest on those ~~deposits, which shall remain in the deposit accounts.~~ deposits. The
41 right to interest is subject to a company paying its insurance policy liabilities. If any
42 company fails to pay those liabilities, interest accruing after the failure is payable to
43 the Commissioner for the payment of those liabilities under subsection (b) of this
44 section."

Section 34. G.S. 58-7-21(a) reads as rewritten:

"(a) As used in this section and in G.S. ~~58-7-26, 58-7-30, and 58-7-31~~: 58-7-26 and G.S. 58-7-30:

(1) 'Reinsurance' means a transfer of insurance risk from a ceding insurer to an assuming insurer.

(2) 'Insurance risk' means an uncertainty regarding the ultimate amount of any claim payment (underwriting risk) or an uncertainty regarding the timing of the payments (timing risk), or both."

Section 35. G.S. 58-7-31(b)(3) reads as rewritten:

"(3) The ceding insurer is required to reimburse the reinsurer for negative experience under the reinsurance agreement; except that neither offsetting experience refunds against current and prior years' losses under the reinsurance agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the reinsurance agreement upon voluntary termination of in-force reinsurance by the ceding insurer are a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions that allow the reinsurer to reduce its risk or increase its risk charge under the reinsurance agreement."

Section 36. G.S. 58-7-31(d)(1) reads as rewritten:

"(1) Reinsurance agreements entered into after October 1, 1993, that involve the reinsurance of business issued ~~prior to~~ before the effective date of the reinsurance agreements, along with any subsequent amendments thereto, shall be filed by the ceding company with the Commissioner within 30 days after its date of execution. Each filing shall include data detailing the ~~final impact~~ financial effect of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves shall consider this statute section and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with the Commissioner. The actuary ~~should~~ shall maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that ~~such~~ that work conforms to this ~~statute~~: section."

Section 37. G.S. 58-7-173(12) reads as rewritten:

"(12) Secured obligations of duly constituted churches and of church-holding companies; and the cost of investments made under this subdivision shall not exceed the lesser of one percent (1%) of the insurer's admitted assets ~~of~~ or five percent (5%) of the insurer's capital and surplus."

Section 38. The catchline of G.S. 58-7-177 reads as rewritten:

"§ 58-7-177. Investments in ~~subsidiaries and affiliated corporations.~~ subsidiaries."

Section 39. G.S. 58-8-5(a)(3) reads as rewritten:

"(3) ~~Said officers shall cause said certificate to be published once a week for two consecutive weeks in a newspaper in Raleigh and in the county where the company's principal office is located, or posted at the courthouse door if no newspaper be published within the county. Said printed or posted notices shall be in such form and of such size as the Commissioner may approve, and in addition to setting forth in full the certificate required in subdivision (2) shall state that application for amending the company's charter in the manner specified has been proposed by the board of directors, and shall also state the time set for a meeting of policyholders thereby called to be held at the principal office of the company to take action on the proposed amendment. A true copy of such notice shall be filed with the Commissioner, and also with that official who performs the functions of Commissioner in each state where the company is licensed to do business. Such publication and filing of notices shall be completed at least 30 days prior to the date set therein for the meeting of policyholders and due proof thereof shall be filed with the Commissioner at least 15 days prior to the date of such meeting. If the meeting at which the proposed amendment is to be considered is a special meeting, rather than a regular annual meeting of policyholders, such special that meeting can be called only after the Commissioner has given his approval in writing, and the published notice shall show the fact of such approval; writing."~~

Section 40. G.S. 58-8-25 reads as rewritten:

"§ 58-8-25. Dividends to policyholders.

(a) Any participating or dividend-paying company, stock or mutual or foreign or domestic, that writes other than life insurance or workers' compensation insurance and employers' liability insurance in connection therewith, may declare and pay a dividend to policyholders from its ~~surplus~~; unassigned surplus as reflected in the company's most recent annual or quarterly statement filed with the Commissioner, which shall include only its surplus in excess of any required minimum surplus. No such dividend shall be paid unless it is fair and equitable and for the best interest of the company and its policyholders. In declaring any dividend to its policyholders, any such company may make reasonable classifications of policies expiring during a fixed period, upon the basis of each general kind of insurance covered by ~~such~~ those policies and by territorial divisions of the location of risks by states, except that in fixing the amount of dividends to be paid on each general kind of insurance, ~~which~~ the dividends shall be uniform in rate and applicable to the majority of risks within ~~such~~ that general kind of insurance, and exceptions may be made as to any class or

1 classes of risk and a different rate or amount of dividends paid on ~~such~~ the class or
2 classes if the conditions applicable to ~~such~~ the class or classes differ substantially from
3 the condition applicable to the kind of insurance as a whole. Every such company
4 shall have an equal rate of dividend for the same term on all policies insuring risks in
5 the same classification. The payment of dividends to policyholders shall not be
6 contingent upon the maintenance or renewal of the policy. All dividends shall be
7 paid to the policyholder unless a written assignment ~~thereof~~ be of those dividends is
8 executed. Neither the payment of dividends nor the rate ~~thereof~~ of the dividends may
9 be guaranteed by any company, or its agent, ~~prior to~~ before the declaration of the
10 dividend by the board of directors of ~~such~~ the company. The holders of policies of
11 insurance issued by a company in compliance with the orders of any public official,
12 bureau or committee, in conformity with any statutory requirement or voluntary
13 arrangement, for the issuance of insurance to risks not otherwise acceptable to the
14 company, may be established as a separate class of risks.

15 (b) Any participating or dividend-paying company, stock or mutual or foreign or
16 domestic, that writes workers' compensation insurance and employers' liability
17 insurance in connection therewith may declare and pay a dividend to policyholders
18 from its ~~surplus~~, unassigned surplus as reflected in the company's most recent
19 statement filed with the Commissioner under G.S. 58-2-165, which shall include only
20 its surplus in excess of any required minimum surplus. No such dividend shall be
21 paid unless it is fair and equitable and for the best interest of the company and its
22 policyholders. In declaring any dividend to its policyholders, any such company may
23 make reasonable classifications of policies expiring during a fixed period. The
24 payment of dividends to policyholders shall not be contingent upon the maintenance
25 or renewal of the policy. All dividends shall be paid to the policyholder unless a
26 written assignment ~~thereof~~ be of those dividends is executed. Neither the payment of
27 dividends nor the rate ~~thereof~~ of the dividends may be guaranteed by any company,
28 or its agent, ~~prior to~~ before the declaration of the dividend by the board of directors
29 of ~~such~~ the company. The holders of policies of insurance issued by a company in
30 compliance with the orders of any public official, bureau, or committee, in
31 conformity with any statutory requirement or voluntary arrangement, for the issuance
32 of insurance to risks not otherwise acceptable to the company, may be established as
33 a separate class of risks."

34 Section 41. G.S. 58-9-6(a) reads as rewritten:

35 "(a) The Commissioner shall issue an intermediary license or an exemption from
36 the license, subject to G.S. 58-9-2(b)(2) or G.S. 58-9-2(c)(3), to any person who has
37 complied with the requirements of this Article. A license issued to a noncorporate
38 entity authorizes all of the members of the entity and any designated employees to act
39 as intermediaries under the license, and those persons shall be named in the
40 application and any supplements. A license issued to a corporation authorizes all of
41 the officers and any designated employees and directors of the corporation to act as
42 intermediaries on behalf of the corporation, and those persons shall be named in the
43 application and any supplements."

44 Section 42. G.S. 58-9-11(b) reads as rewritten:

1 "(b) An insurer shall not engage the services of any person to act as a broker on
2 its behalf unless the person is licensed ~~under G.S. 58-9-6. or exempted under this~~
3 Article. An insurer shall not employ an individual who is employed by a broker with
4 which it transacts business, unless the broker is under common control with the
5 insurer under Article 19 of this Chapter."

6 Section 43. G.S. 58-9-21(a) reads as rewritten:

7 "(a) A reinsurer shall not engage the services of any person to act as a manager
8 on its behalf unless the person is licensed ~~under G.S. 58-9-6. or exempted under this~~
9 Article."

10 Section 44. G.S. 58-12-2(3) reads as rewritten:

11 "(3) Domestic insurer. -- Any insurance company organized in this
12 State under ~~Article 7~~ Article 7 or Article 15 of this Chapter."

13 Section 45. G.S. 58-13-10 reads as rewritten:

14 "**§ 58-13-10. Scope.**

15 (a) This Article applies to all domestic insurers and to all kinds of insurance
16 written by those insurers ~~under Articles 1 through 66~~ of this Chapter. Foreign
17 insurers ~~are to~~ shall comply in substance with the requirements and limitations of this
18 section. ~~This Article does not apply to variable contracts for which separate accounts~~
19 ~~are required to be maintained nor to statutory deposits that are required to be~~
20 ~~maintained by insurance regulatory agencies as a requirement for doing business in~~
21 ~~such jurisdictions.~~

22 (b) This Article does not apply to:

- 23 (1) Variable contracts for which separate accounts are required to be
24 maintained.
25 (2) Statutory deposits that are required to be maintained by
26 insurance regulatory agencies as a requirement for doing business.
27 (3) Real estate authorized under G.S. 58-7-187 and encumbered by a
28 mortgage loan with a first lien."

29 Section 46. G.S. 58-13-15 reads as rewritten:

30 "**§ 58-13-15. Definitions.**

31 As used in this Article:

- 32 (1) 'Assets' means all property, real or personal, tangible or
33 intangible, legal or equitable, owned by an insurer.
34 (2) 'Claimants' means any owners, beneficiaries, assignees, certificate
35 holders, or third-party beneficiaries of any insurance benefit or
36 right arising out of and within the coverage of an insurance policy
37 covered by this Article.
38 (3) 'Reserve assets' means those assets of an insurer that are
39 authorized investments for policy reserves in accordance with
40 ~~Articles 1 through 64 of this Chapter and G.S. 58-65-95. this~~
41 Chapter.
42 (4) 'Policyholder-related liabilities' means those liabilities that are
43 required to be established by an insurer for all of its outstanding

1 insurance policies in accordance with ~~Articles 1 through 64 of~~
2 ~~this Chapter and G.S. 58-65-95: this Chapter.~~"

3 Section 47. G.S. 58-13-20(b) reads as rewritten:

4 "(b) The Commissioner ~~has the right to~~ may examine any of ~~such~~ these assets,
5 reinsurance agreements, or deposit arrangements at any time in accordance with ~~his~~
6 the Commissioner's authority to make examinations of insurers as conferred by other
7 provisions of ~~Articles 1 through 64 of this Chapter.~~"

8 Section 48. G.S. 58-19-5(5) reads as rewritten:

9 "(5) 'Person' means an individual, corporation, partnership, limited
10 liability company, association, joint stock company, trust,
11 unincorporated organization, or any similar entity or any
12 combination of the foregoing acting in concert."

13 Section 49. G.S. 58-19-10(b)(1) reads as rewritten:

14 "(1) Invest, in common stock, preferred stock, debt obligations, and
15 other securities of one or more subsidiaries, amounts that do not
16 exceed the lesser of ten percent (10%) of ~~such~~ the insurer's
17 admitted assets or fifty percent (50%) of ~~such~~ the insurer's
18 surplus as regards policyholders, provided that after ~~such~~ those
19 investments, the insurer's surplus as regards policyholders will be
20 reasonable in relation to the insurer's outstanding liabilities and
21 adequate to its financial needs. In calculating the amount of ~~such~~
22 the investments, investments in domestic or foreign insurance
23 subsidiaries and health maintenance organizations shall be
24 excluded, and there shall be included: (i) total net monies or
25 other consideration expended and obligations assumed in the
26 acquisition or formation of a subsidiary, including all
27 organizational expenses and contributions to capital and surplus
28 of ~~such~~ the subsidiary whether or not represented by the purchase
29 of capital stock or issuance of other securities; and (ii) all
30 amounts expended in acquiring additional common stock,
31 preferred stock, debt obligations, and other securities, and all
32 contributions to the capital or surplus, of a subsidiary subsequent
33 to its acquisition or formation;"

34 PART VI. HANDICAPPED PERSONS.

35 Section 50. G.S. 168-10 reads as rewritten:

36 "§ 168-10. Eliminate discrimination in treatment of handicapped and disabled.

37 Each handicapped person shall have the same consideration as any other person
38 for individual accident and health insurance coverage, and no insurer, service
39 corporation, multiple employer welfare arrangement, or health maintenance
40 organization subject to Chapter 58 of the General Statutes solely on the basis of ~~such~~
41 the person's handicap, shall deny ~~such~~ coverage or benefits. The availability of ~~such~~
42 insurance coverage or benefits shall not be denied solely ~~due to~~ because of the
43 ~~handicap, provided, however, that no such insurer shall be prohibited from excluding~~
44 ~~by waiver or otherwise, any pre-existing conditions from such coverage, and further~~

1 ~~provided that handicap; however, any such insurer may charge the appropriate~~
2 ~~premiums or fees for the risk insured on the same basis and conditions as insurance~~
3 ~~issued to other persons. persons, in accordance with actuarial and underwriting~~
4 ~~principles prescribed in Chapter 58 of the General Statutes. Nothing contained~~
5 ~~herein or in any other statute shall restrict or preclude any insurer governed by~~
6 ~~Chapter 58 of the General Statutes from setting and charging a premium or fee based~~
7 ~~upon the class or classes of risks and on sound actuarial and underwriting principles~~
8 ~~as determined by such insurer, or from applying its regular underwriting standards~~
9 ~~applicable to all classes of risks. The provisions of this section shall apply to both~~
10 ~~corporations governed by Chapter 58 of the General Statutes."~~

11 Section 51. G.S. 168-22(b) reads as rewritten:

12 "(b) A family care home ~~shall be~~ is deemed a residential use of property for the
13 purposes of determining charges or assessments imposed by political subdivisions or
14 businesses for water, sewer, power, telephone service, cable television, garbage and
15 trash collection, repairs or improvements to roads, streets, and sidewalks, and other
16 services, utilities, and ~~improvements, and for purposes of classification for insurance.~~
17 improvements."

18 **PART VII. AUTOMOBILE INSURANCE.**

19 Section 52. G.S. 58-36-75(c) is repealed.

20 Section 53. G.S. 58-36-85(a) reads as rewritten:

21 "(a) Definitions. -- The following definitions apply in this section:

22 (1) Policy. -- A nonfleet private passenger motor vehicle liability
23 insurance policy, including ~~a policy one~~ one that provides medical
24 payments, uninsured motorist, or underinsured motorist coverage,
25 ~~whose named insured is one individual or two or more~~
26 ~~individuals who reside in the same household. that is under the~~
27 jurisdiction of the Rate Bureau.

28 (2) Terminate. -- To cancel or refuse to renew a policy."

29 Section 54. G.S. 58-37-40(f) reads as rewritten:

30 "(f) The plan of operation shall provide that every member shall, following
31 payment of any pro rata assessment, ~~commence~~ begin recoupment of that assessment
32 by way of a surcharge on motor vehicle insurance policies issued by the member or
33 through the Facility until the assessment has been recouped. ~~Such~~ The surcharge
34 shall be a percentage of premium adopted by the Board of Governors of the Facility;
35 and the charges determined on the basis of the surcharge shall be combined with and
36 displayed as a part of the applicable premium charges. ~~Provided, however, that~~
37 ~~recoupment~~ Recoupment of losses sustained by the Facility ~~since September 1, 1977,~~
38 with respect to nonfleet private passenger motor vehicles may be recouped only by
39 surcharging policies ~~(i)~~ (i) that are subject to the classification plan ~~promulgated~~
40 ~~pursuant to G.S. 58-36-65 and (ii) to which one or more driving record points have~~
41 ~~been assigned pursuant to said plan, subject to the provisions of G.S. 58-36-75. under~~
42 G.S. 58-36-65. If the amount collected during the period of surcharge exceeds
43 assessments paid by the member to the Facility, the member shall pay over the excess
44 to the Facility on a date specified by the Board of Governors. If the amount collected

1 during the period of surcharge is less than the assessments paid by the member to the
2 Facility, the Facility shall pay the difference to the member. Except as ~~hereinafter~~
3 ~~provided, otherwise provided in this Article,~~ the amount of recoupment shall not be
4 considered or treated as a rate or premium for any purpose. The Board of Governors
5 shall adopt and implement a plan for compensation of agents of Facility members
6 when recoupment surcharges are imposed; ~~such that~~ compensation shall not exceed
7 the compensation or commission rate normally paid to the agent for the issuance or
8 renewal of the automobile liability policy issued through the North Carolina
9 Reinsurance Facility affected by ~~such surcharge; provided, however, that the~~
10 ~~surcharge. However,~~ the surcharge provided for in this section shall include an
11 amount necessary to recover the amount of the assessment to member companies and
12 the compensation paid by each member, ~~pursuant to~~ under this section, to agents."

13 Section 55. G.S. 58-37-35(b)(8) reads as rewritten:

14 "(8) To establish fair and reasonable procedures for the sharing among
15 members of any loss on Facility business ~~which that~~ cannot be
16 recouped ~~pursuant to under~~ G.S. 58-37-40(f) or ~~which cannot be~~
17 ~~recouped or allocated under G.S. 58-37-75,~~ allocated, and other
18 costs, charges, expenses, liabilities, income, property and other
19 assets of the Facility and for assessing or distributing to members
20 their appropriate shares. ~~Such~~ The shares may be based on the
21 member's premiums for voluntary business for the appropriate
22 category of motor vehicle insurance or by any other fair and
23 reasonable method."

24 Section 56. G.S. 58-37-35(l) reads as rewritten:

25 "(l) The classifications, rules, rates, rating plans and policy forms used on
26 motor vehicle insurance policies reinsured by the Facility may be made by the
27 Facility or by any licensed or statutory rating organization or bureau on its behalf and
28 shall be filed with the Commissioner. The Board of Governors shall establish a
29 separate subclassification within the Facility for ~~'clean risks' as herein defined, risks'~~
30 For the purpose of this Article, a 'clean risk' ~~shall be~~ is any owner of a nonfleet
31 private passenger motor vehicle as defined in G.S. 58-40-10, if the owner, principal
32 operator, and each licensed operator in the owner's household have two years'
33 driving experience as licensed drivers and if none of the persons has been assigned
34 any Safe Driver Incentive Plan points under Article 36 of this Chapter during the
35 three-year period immediately preceding either (i) the date of application for a motor
36 vehicle insurance policy or (ii) the date of preparation of a renewal of a motor
37 vehicle insurance policy. ~~Such~~ The filings may incorporate by reference any other
38 material on file with the Commissioner. Rates shall be neither excessive, inadequate
39 nor unfairly discriminatory. If the Commissioner finds, after a hearing, that a rate is
40 either excessive, inadequate or unfairly discriminatory, ~~he~~ the Commissioner shall
41 issue an order specifying in what respect it is deficient and stating when, within a
42 reasonable period thereafter, ~~such rate shall be deemed~~ the rate is no longer effective.
43 ~~Said~~ The order is subject to judicial review as set out in Article 2 of this Chapter.
44 Pending judicial review of ~~said~~ the order, the filed classification plan and the filed

1 rates may be used, charged and collected in the same manner as set out in G.S.
2 58-40-45 of this Chapter. ~~Said~~ The order shall not affect any contract or policy made
3 or issued ~~prior to~~ before the expiration of the period set forth in the order. All rates
4 shall be on an actuarially sound basis and shall be calculated, insofar as is possible, to
5 produce neither a profit nor a loss. However, the rates made by or on behalf of the
6 Facility with respect to 'clean risks', ~~as defined above,~~ risks shall not exceed the
7 rates charged 'clean risks' who are not reinsured in the Facility. The difference
8 between the actual rate charged and the actuarially sound and self-supporting rates
9 for 'clean risks' reinsured in the Facility may be recouped in similar manner as
10 assessments ~~pursuant to G.S. 58-37-40(f) or allocated pursuant to G.S. 58-37-75.~~ under
11 G.S. 58-37-40(f). Rates shall not include any factor for underwriting profit on Facility
12 business, but shall provide an allowance for contingencies. There shall be a strong
13 presumption that the rates and premiums for the business of the Facility are neither
14 unreasonable nor excessive."

15 Section 57. G.S. 58-37-75 is repealed.

16 **PART VIII. WORKERS' COMPENSATION SELF-INSURANCE.**

17 Section 58. G.S. 58-50-60 reads as rewritten:

18 "**§ 58-50-60. Rules for precertification practices.**

19 (a) This section applies to all accident and health insurers under Articles 1
20 through 64 of this Chapter, all third-party administrators and preferred provider
21 arrangements, all entities subject to Articles 65 through 67 of this Chapter, and all
22 self-funded ~~health benefit~~ workers' compensation insurance plans.

23 (b) The Commissioner shall adopt reasonable rules governing ~~precertification~~
24 ~~practices and forms~~ utilization review and utilization review organizations ~~affiliated~~
25 that do business with the entities subject to this section."

26 Section 59. G.S. 58-50-65(a) reads as rewritten:

27 "(a) ~~Nothing~~ Except as provided in this subsection, nothing in Articles 50 through
28 55 of this Chapter ~~shall apply~~ applies to or affect any policy of liability or workers'
29 compensation ~~insurance, except that insurance policy.~~ Except for G.S. 58-50-55(a),
30 the provisions of G.S. 58-50-50 and subsections (b) and (c) of G.S. 58-50-55 shall this
31 Article and Articles 65 and 67 of this Chapter and any administrative rules adopted
32 under those Articles relating to preferred providers and utilization review apply to
33 policies of workers' compensation insurance. insurance policies and to individual
34 and group self-funded workers' compensation insurance plans. If there is any conflict
35 between managed care rules adopted by the Commissioner under this Chapter and
36 managed care rules adopted by the Industrial Commission under G.S. 97-25.2, the
37 Industrial Commission's rules govern. If there is any conflict between managed care
38 provisions in this Chapter and in Chapter 97 of the General Statutes with respect to
39 workers' compensation, the provisions in Chapter 97 govern."

40 **PART IX. CERTIFICATE OF AUTHORITY CONFORMING NAME CHANGE.**

41 Section 60. The phrase "certificate of authority" is deleted and replaced
42 by the word "license" wherever it occurs in each of the following sections of the
43 General Statutes:

44 G.S. 58-4-15. Revocation of certificate of authority.

- 1 G.S. 58-7-55. Exceptions to requirements of G.S. 58-7-50.
2 G.S. 58-7-70. Effects of redomestication.
3 G.S. 58-15-5. Definitions.
4 G.S. 58-16-35. Unauthorized Insurers Process Act.
5 G.S. 58-24-45. Organization.
6 G.S. 58-24-145. Injunction -- Liquidation -- Receivership of domestic society.
7 G.S. 58-28-5. Transacting business without certificate of authority prohibited;
8 exceptions.
9 G.S. 58-28-15. Validity of acts or contracts of unauthorized company shall not
10 impair obligation of contract as to the company; maintenance of
11 suits; right to defend.
12 G.S. 58-28-45. Uniform Unauthorized Insurers Act.
13 G.S. 58-30-10. Definitions.
14 G.S. 58-30-55. Condition on release from delinquency proceedings.
15 G.S. 58-30-260. Conservation of property of foreign or alien insurers found in this
16 State.
17 G.S. 58-33-132. Qualifications of instructors.
18 G.S. 58-41-55. Penalties; restitution.
19 G.S. 58-48-35. Powers and duties of the Association.
20 G.S. 58-48-45. Duties and powers of the Commissioner.
21 G.S. 58-57-80. Penalties.
22 **PART X. RISK SHARING PLAN SUNSET EXTENSION.**
23 Section 61. G.S. 58-42-55 reads as rewritten:
24 "§ 58-42-55. Expiration.
25 This Article ~~shall expire~~ expires on July 1, ~~1997~~ 1999."
26 **PART XI. EFFECT OF HEADINGS.**
27 Section 62. The headings to the parts of this act are a convenience to the
28 reader and are for reference only. The headings do not expand, limit, or define the
29 text of this act.
30 **PART XII. EFFECTIVE DATE.**
31 Section 63. Sections 30-32 of this act become effective September 1, 1997.
32 The remainder of this act is effective when it becomes law.

**NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE ACTUARIAL NOTE**

BILL NUMBER: House Bill 1277

SHORT TITLE: Fayetteville Public Works Retirement

SPONSOR(S): Representative John William Hurley

SYSTEM AFFECTED: Local Governmental Employees' Retirement System.

FUNDS AFFECTED: Funds of City of Fayetteville Public Works Commission

BILL SUMMARY: Allows the Public Works Commission of the City of Fayetteville to be a separate participating unit in the Local Governmental Employees' Retirement System rather than being included with the other employees of the City.

EFFECTIVE DATE: When it becomes law.

ESTIMATED IMPACT ON LOCAL GOVERNMENTS: The City of Fayetteville Public Works Commission will be required to pay the normal retirement cost of 4.80% of payroll plus an accrued liability contribution rate based on the liability that exists when participation begins. This accrued liability will be liquidated over a 24 years period.

ASSUMPTIONS AND METHODOLOGY:

Local Governmental Employees' Retirement System

The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 1996 actuarial valuation of the fund. The data included 104,454 active members with an annual payroll of \$2.594 billion and 24,028 retired members in receipt of annual pensions totaling \$227.7 million. Significant actuarial assumptions used include (a) an investment return rate of 7.5%, (b) salary increase rate of 6.25%, (c) the 1979 George B. Buck Mortality Tables for deaths in service and after retirement and (d) rates of separation from active service based on System experience. The actuarial cost method used was the projected benefit method with aggregate level normal cost and frozen accrued liability. Detailed information concerning these assumptions and methods is shown in the actuary's report which is available upon request from Stanley Moore.

SOURCES OF DATA: System Actuary - Buck Consultant, Inc.
General Assembly Actuary - Hartman & Associates, LLC

FISCAL RESEARCH DIVISION The above information is provided in accordance with North Carolina General Statute 120-114 and applicable Rules of the North Carolina Senate and House of Representatives

(919)733-4910

PREPARED BY: Stanley Moore

APPROVED BY: Tom Covington



DATE: May 28, 1998



North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 23, 1998

MEMORANDUM

TO: Representative Bobby H. Barbee, Chairman,
House Pensions and Retirement Committee.

FROM: Karen Cochrane Brown, Committee Counsel. *KCB*

RE: House Bill 1522 - Local/ State Purchase of Service.

House Bill 1522 amends provisions in the laws governing the Local Governmental Employees' Retirement System and the Teachers' and State Employees' Retirement System to allow members of each System to purchase service rendered as a part-time employee in either System.

Currently, local government employees can purchase part-time service to a local governmental employer and a teacher or state employee can purchase part-time service to an employer as defined in the State System, but an employee in either system may not purchase service rendered to an employer in the other system.

This bill would amend the law to add service to employers in the State System to the law relating to the Local System and a similar provision adding service to employers in the local system to the law governing the State System.

This act would become effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1525

Short Title: Repeal Laurinburg Supp. Pension.

(Local)

Sponsors: Representative Yongue.

Referred to: Local and Regional Government I, if favorable, Pensions and Retirement.

May 27, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO REPEAL THE ACT ESTABLISHING A SUPPLEMENTARY
3 PENSION FUND FOR FIREMEN IN THE CITY OF LAURINBURG.
4 The General Assembly of North Carolina enacts:
5 Section 1. Sections 1 through 7 of Chapter 1315 of the 1979 Session
6 Laws are repealed.
7 Section 2. All funds held by the Trustees of the Laurinburg Firemen's
8 Supplemental Retirement Fund are transferred to the Board of Trustees of the Local
9 Firemen's Relief Fund of the City of Laurinburg to be held and administered as
10 provided in Article 86 of Chapter 58 of the General Statutes.
11 Section 3. This act is effective when it becomes law.

VISITOR REGISTRATION SHEET

July 22, 1998

Senate - Pensions - Retirement + Insurance

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME	FIRM OR STATE AGENCY AND ADDRESS
W. R. Hile	NC Ins Dept
Dash Probes	"
Starla McKenney	"
Robert Brown	Tordan Price Well Hay & Jan
Alan Miles	Bailey & Dixon LLP
Robert Paschal	Young, Moore & Henderson
John Bourdichy	Zeb Alley P.A.
Harry Kaplan	NCAHP
Tim McDaniel	NCAK U
Katherine Joyce	SEANC
Bill Scobbin	NC Bar Assoc
John Phelps	NC League of Municipalities
Mami Smith	NC SEPS
Robert Schow	NCAU
Linda Peel	NC Medical Society
Steve Keene	
Mary Mendenhall	Tyner & Spill
Carmen Hooker Bell	CHS

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Thursday, August 06, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.	926	Preferred Provider Contracts	
		Draft Number:	PCS2410-RN004
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 1

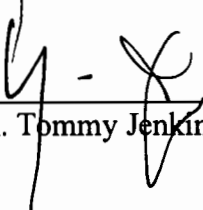
Committee Clerk Comment: None

MINUTES

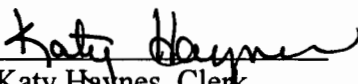
The Pensions&Retirement/ Insurance Committee met Wednesday, Aug. 5, 1998 at 10:00 in room 1124 of the Legislative Building. There were 15 members in attendance including Sen. Jenkins, who presided..

Sen. Jenkins brought forward **HB 926 Preferred Provider Contracts** for consideration. The following public members spoke regarding different points of the bill: Alan Miles, American Insurance Assn., George Teague, Alliance of American Insurers, and Dascheil Propes, Dept. of Insurance. Sen. Odom sent forth an amendment. Sen. Carpenter moved for its acceptance. The motion carried and the amendment was rolled into a committee substitute.

The meeting was adjourned.



Sen. Tommy Jenkins, Chairman



Katy Haynes, Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 926

Proposed Senate Committee Substitute H926-PCSA497-RN004

Short Title: Insurance Law Changes.

(Public)

Sponsors:

Referred to:

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT PERTAINING TO CHANGES IN THE INSURANCE LAWS AND
3 RELATED LAWS.

4 The General Assembly of North Carolina enacts:

5

6 CHARITABLE GIFT ANNUITIES

7

Section 1. G.S. 58-3-5 reads as rewritten:

8 "§ 58-3-5. No insurance contracts except under Articles 1 through 64 of this Chapter.

9 (a) ~~Except as provided in subsection (b) of this section, it~~ is unlawful for any
10 company to make any contract of insurance upon or concerning any property or
11 interest or lives in this State, or with any resident thereof, or for any person as
12 insurance agent or insurance broker to make, negotiate, solicit, or in any manner aid
13 in the transaction of such insurance, unless and except as authorized under the
14 provisions of Articles 1 through 64 of this Chapter.

15 (b) A charitable organization as described in section 501(c)(3) or section 170(c) of
16 the Internal Revenue Code or an educational institution may receive a transfer of
17 property contingent upon its agreement to pay an annuity benefit of the transferor or
18 the transferor's nominee without being subject to this Chapter if the following
19 conditions are met:

20 (1) The organization or educational institution has been in active
21 operation for a least five years.

22 (2) The organization or educational institution has reinsured its
23 liability under its annuity agreements with a licensed reinsurer and

has notified the Department of Insurance of the name of the reinsurer.

(3) The annuity agreement contains the following disclosure clause:

'This annuity is not issued by an insurance company, is not subject to regulation by the State of North Carolina, and is not protected or otherwise guaranteed by any government agency or insurance guaranty fund.'

(c) For purposes of this section, 'educational institution' means a school, academy, institute, college, university, or other entity that maintains a faculty to provide instruction to students and that is principally funded on a continuing basis by appropriations from the State or a political subdivision of the State or that is subject to oversight under Chapters 115C, 115D, or 116 of the General Statutes."

INSURANCE DISCRIMINATIONS AGAINST PUBLIC OFFICIALS

Section 2. Article 3 of Chapter 58 of the General Statutes is amended by adding a new Article to read:

"§ 58-3-27. Limitations on cancellation, nonrenewal, and refusal to insure with respect to public officials.

(a) As used in this section, 'public office' means any office filled by election by the people on a statewide, county, municipal, or district basis.

(b) An insurer that writes property or liability insurance in this State shall not:

(1) Cancel or refuse to issue or renew a policy solely on the basis that the policyholder holds a public office.

(2) Limit coverage under the policy solely on the basis that the policyholder holds a public office."

AVIATION INSURANCE

Section 3. G.S. 58-21-10(8) reads as rewritten:

"(8) 'Surplus lines insurance' means any insurance in this State of risks resident, located, or to be performed in this State, permitted to be placed through a surplus lines licensee with a nonadmitted insurer eligible to accept such insurance, other than reinsurance, aviation insurance, wet marine and transportation insurance, insurance independently procured pursuant to G.S. 58-28-5, life and accident or health insurance, and annuities."

HMO INSOLVENCY CLAIMS PRIORITIES

Section 4. G.S. 58-30-220 reads as rewritten:

"§ 58-30-220. Priority of distribution.

The priority of distribution of claims from the insurer's estate shall be in accordance with the order in which each class of claims is set forth in this section. Every claim in each class shall be paid in full or adequate funds shall be retained for payment before the members of the next class receive any payment. No subcategories

1 shall be established within the categories in a class. The order of distribution of
2 claims shall be:

- 3 (1) The receiver's expenses for the administration and conservation of
4 assets of the insurer.
- 5 (2) Claims or portions of claims for benefits under policies and for
6 losses incurred, including claims of third parties under liability
7 policies; claims of HMO enrollees and HMO enrollees'
8 beneficiaries; claims for unearned premiums; claims for funds or
9 consideration held under funding agreements, as defined in G.S.
10 58-7-16; claims under life insurance and annuity policies, whether
11 for death proceeds, annuity proceeds, or investment values; and
12 claims of domestic and foreign guaranty associations, including
13 claims for the reasonable administrative expenses of domestic and
14 foreign guaranty associations; but excluding claims of insurance
15 pools, underwriting associations, or those arising out of reinsurance
16 agreements, claims of other insurers for subrogation, and claims of
17 insurers for payments and settlements under uninsured and
18 underinsured motorist coverages.
- 19 (2a) For HMOs, claims of providers and participating providers, as
20 defined in G.S. 58-67-5(h) and G.S. 58-67-5(1), who are obligated
21 by statute, agreement, or court order to hold enrollees harmless
22 from liability for services provided and covered by an HMO.
- 23 (3) Claims of the federal or any state or local government or taxing
24 authority, including claims for taxes.
- 25 (4) Compensation actually owing to employees other than officers of
26 the insurer for services rendered within three months before the
27 commencement of a delinquency proceeding against the insurer
28 under this Article, but not exceeding one thousand dollars (\$1,000)
29 for each employee. In the discretion of the Commissioner, this
30 compensation may be paid as soon as practicable after the
31 proceeding has been commenced. This priority is in lieu of any
32 other similar priority that may be authorized by law as to wages or
33 compensation of those employees.
- 34 (5) Claims of general creditors, including claims of insurance pools,
35 underwriting associations, or those arising out of reinsurance
36 agreements; claims of other insurers for subrogation; and claims of
37 insurers for payments and settlements under uninsured and
38 underinsured motorist coverages.

39 Section 5. G.S. 58-67-145 reads as rewritten:

40 **"§ 58-67-145. Rehabilitation, liquidation, or conservation of health maintenance**
41 **organization.**

42 Any rehabilitation, liquidation or conservation of a health maintenance
43 organization shall be deemed to be the rehabilitation, liquidation, or conservation of
44 an insurance company and shall be conducted under the supervision of the

1 Commissioner pursuant to the law governing the rehabilitation, liquidation, or
2 conservation of insurance companies, except that the provisions of Articles 48 and 62
3 of this Chapter shall not apply to health maintenance organizations. The
4 Commissioner may apply for an order directing him to rehabilitate, liquidate, or
5 conserve a health maintenance organization upon one or more grounds set out in
6 Article 30 of this Chapter or when in his opinion the continued operation of the
7 health maintenance organization would be hazardous either to the enrollees or to the
8 people of this State.

9 ~~For the purpose of determining the priority of distribution of general assets, claims~~
10 ~~of enrollees and claims of enrollees' beneficiaries have the same claims' priorities as~~
11 ~~established by G.S. 58-30-220, for policyholders and beneficiaries of other insurance~~
12 ~~companies. Any provider who is obligated by statute, agreement, or court order to~~
13 ~~hold enrollees harmless from liability for services provided and covered by an HMO~~
14 ~~has a priority of distribution next subordinate to that of policyholders under G.S.~~
15 ~~58-30-220, so that his status is after claims for unearned premiums, but before claims~~
16 ~~of general creditors. Providers who are not obligated to hold enrollees harmless shall~~
17 ~~be treated as general creditors and shall pursue claims against enrollees until final~~
18 ~~resolution of the estate of the liquidated HMO."~~

19

20 NCIUA TECHNICAL CORRECTION

21 Section 6. G.S. 58-45-10 reads as rewritten:

22 "**§ 58-45-10. North Carolina Insurance Underwriting Association created.**

23 There is hereby created the North Carolina Insurance Underwriting Association,
24 consisting of all insurers authorized to write and engage in writing within this State,
25 on a direct basis, essential property insurance, except town and county mutual
26 insurance associations and assessable mutual companies as authorized by G.S. 58-7-
27 75(5)b, 58-7-75(5)d, and 58-7-75(7)b and except an insurer who only writes insurance
28 in this State on property exempted from taxation by the provisions of ~~G.S. 105-296~~
29 ~~and 105-297. G.S. 105-278.1 through G.S. 105-278.8.~~ Every such insurer shall be a
30 member of the Association and shall remain a member of the Association so long as
31 the Association is in existence as a condition of its authority to continue to transact
32 the business of insurance in this State."

33

34 CHILDREN'S HEALTH INSURANCE PORTABILITY

35 Section 7. G.S. 58-68-30(c)(1) reads as rewritten:

36 "(1) Creditable coverage defined. -- For the purposes of this Article,
37 "creditable coverage" means, with respect to an individual,
38 coverage of the individual under any of the following:

- 39 a. A self-funded employer group health plan under the
40 Employee Retirement Income Security Act of 1974.
41 b. Group or individual health insurance coverage.
42 c. Part A or part B of title XVIII of the Social Security Act.
43 d. Title XIX of the Social Security Act, other than coverage
44 consisting solely of benefits under section 1928.

- 1 e. Chapter 55 of title 10, United States Code.
2 f. A medical care program of the Indian Health Service or of a
3 tribal organization.
4 g. A State health benefits risk pool.
5 h. A health plan offered under chapter 89 of title 5, United
6 States Code.
7 i. A public health plan (as defined in federal regulations).
8 j. A health benefit plan under section 5(e) of the Peace Corps
9 Act (22 U.S.C. § 2504(e)).
10 k. The Health Insurance Program for Children established in
11 Part 8 of Chapter 108A of the General Statutes, or any
12 successor program.
13 'Creditable coverage' does not include coverage consisting solely
14 of coverage of excepted benefits."
15

16 CONDOMINIUM INSURANCE/INDIVIDUAL UNITS

17 Section 8.(a) G.S. 47C-3-113(a) reads as rewritten:

18 "(a) Commencing not later than the time of the first conveyance of a unit to a
19 person other than a declarant, the association shall maintain, to the extent available:

- 20 (1) Property insurance on the common elements ~~and units~~ insuring
21 against all risks of direct physical loss commonly insured against
22 including fire and extended coverage perils. The total amount of
23 insurance after application of any deductibles shall be not less than
24 eighty percent (80%) of the replacement cost of the insured
25 property at the time the insurance is purchased and at each
26 renewal date, exclusive of land, excavations, foundations and other
27 items normally excluded from property policies; and
28 (2) Liability insurance in reasonable amounts, covering all occurrences
29 commonly insured against death, bodily injury and property
30 damage arising out of or in connection with the use, ownership, or
31 maintenance of the common elements.

32 (b) G.S. 47C-3-113(b) reads as rewritten:

33 "~~(b) The insurance maintained under subdivision (a)(1)~~ In the case of a building
34 containing units having horizontal boundaries described in the declaration, the
35 insurance maintained under subdivision (a)(1), to the extent reasonably available,
36 shall include the units, but need not include improvements and betterments installed
37 by unit owners."

38 (c) G.S. 47C-3-113(c) reads as rewritten:

39 "(c) If the insurance described in subsection (a) or (b) of this section is not
40 reasonably available, the association promptly shall cause notice of that fact to be
41 hand-delivered or sent prepaid by United States mail to all unit owners. The
42 declaration may require the association to carry any other insurance, and the
43 association in any event may carry any other insurance it deems appropriate to
44 protect the association or the unit owners."

2 SMALL EMPLOYER GROUP HEALTH INSURANCE

3 Section 9. G.S. 58-50-110(14) reads as rewritten:

4 "(14) 'Late enrollee' ~~means an eligible employee or dependent who~~
5 ~~requests enrollment in a health benefit plan of a small employer~~
6 ~~after the end of the initial enrollment period provided under the~~
7 ~~terms of the health benefit plan in effect at the time the employee~~
8 ~~first became eligible; has the same meaning as defined in G.S. 58-~~
9 ~~68-30(b)(2);~~ provided that the initial enrollment period shall be a
10 period of at least 30 consecutive calendar days. ~~However, In~~
11 ~~addition to the special enrollment provisions in G.S. 58-68-30(f),~~
12 an eligible employee or dependent shall not be considered a late
13 enrollee under a small employer health benefit plan if:

14 a. ~~The individual was covered under a public or private~~
15 ~~health benefit plan that provided, at the time the~~
16 ~~individual was eligible to enroll, benefits equal to or~~
17 ~~exceeding the same required level of benefits in the~~
18 ~~basic or standard health care plans adopted pursuant~~
19 ~~to G.S. 58-50-120 and either the individual:~~

20 1. ~~Lost coverage under another health plan as a~~
21 ~~result of termination of employment;~~
22 ~~termination of a spouse's health plan coverage;~~
23 ~~or the death of a spouse or divorce and~~
24 ~~requests enrollment in a health benefit plan~~
25 ~~within 30 days after termination of coverage~~
26 ~~provided under another health plan; or~~

27 2. ~~Stated, in writing, during the enrollment period~~
28 ~~that coverage under another employer health~~
29 ~~benefit plan was the reason for declining~~
30 ~~coverage;~~

31 a.3,4. Repealed by Session Laws 1993, c. 529, s. 3.3.

32 b. The individual elects a different health benefit plan
33 offered through the Alliance or by the small employer
34 during an open enrollment period;

35 e. ~~An eligible employee requests enrollment within 30~~
36 ~~days of becoming an employee of a member small~~
37 ~~employer;~~

38 d. A court has ordered coverage be provided for a
39 spouse or minor child under a covered employee's
40 health benefit plan and the request for enrollment for
41 a spouse is made within 30 days after issuance of the
42 court order. A minor child shall be enrolled in
43 accordance with the requirements of ~~G.S. 58-51-120;~~
44 G.S. 58-51-120; or

e. ~~The individual or employee enrollee makes a request for enrollment of the spouse or child within 30 days after the individual's or employee's marriage or the birth, adoption, or placement for adoption of a child.~~

Section 10. G.S. 58-50-130(g) reads as rewritten:

"(g) A small employer carrier shall make the information and documentation described in subsection (e) of this section available to the Commissioner upon request. Except in cases of violations of this Act, the information is proprietary and trade secret information and is not subject to disclosure by the Commissioner to persons outside of the Department except as agreed to by the small employer carrier or as ordered by a court of competent jurisdiction. Nothing in this section affects the Commissioner's authority to approve rates before their use under G.S. 58-65-60(e) or G.S. 58-67-50(c)."

Section 11. G.S. 58-50-135(a) reads as rewritten:

"(a) Every small employer carrier shall elect either to become a risk-assuming carrier and comply with the provisions of G.S. 58-50-140 or become a reinsuring carrier and comply with the provisions of G.S. 58-50-145. The election shall be binding for a five-year period except that ~~the~~ a newly licensed carrier's initial election ~~shall be made within 60 days after January 1, 1992, and~~ shall be made for two years. The Commissioner may, for good cause, permit a carrier to modify its election during the five-year period. All carriers under common ownership or control must make the same election in this State; provided, however, that the Commissioner may, for good cause, permit an affiliated carrier to make a separate election."

MEDICARE SUPPLEMENT INSURANCE

Section 12. G.S. 58-54-25 reads as rewritten:

"§ 58-54-25. Disclosure standards.

(a) In order to provide for full and fair disclosure in the sale of policies, no policy or certificate shall be delivered in this State unless an outline of coverage is delivered to the applicant at the time application is made.

(b) The Commissioner shall prescribe the format and content of the outline of coverage required by subsection (a) of this section. For purposes of this section, "format" means style, arrangement, and overall appearance, including such items as the size, color, and prominence of type and arrangement of text and captions. Such outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the exceptions, reductions, and limitations contained in the policy;
- (3) A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums; and

(4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The Commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the Commissioner may require by rule that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the Commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare, but in no event later than the time of policy delivery.

(d) The Commissioner may adopt rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than: Medicare supplement policies; disability income policies; basic, catastrophic, or major medical expense policies; or single premium, nonrenewable policies.

(e) The Commissioner may further adopt rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health insurance policies, subscriber contracts, or certificates by persons eligible for Medicare.

(f) No insurer shall use attained age as a structure or methodology for its Medicare supplement insurance rates unless the structure or methodology is fully disclosed to the applicant at the time of application or to the insured at the time of delivery if the purchase is by mail order. All types of solicitation materials shall clearly indicate that the premiums are based on attained age, which means that those premiums will increase each year. The Commissioner shall prescribe by rule the format and content of the attained age rating disclosure notice. The notice shall include:

- (1) A statement that attained age rating means that rates increase as the insured ages or by the age group in which the insured is.
- (2) An illustration based on actual attained age that states the dollar amount of premium increase for the insured over a period of not less than 10 policy years and that displays the life expectancy of the insured at the beginning of the period.
- (3) A statement that premiums for other Medicare supplement policies that are on issue age bases do not increase as the insured ages.
- (4) A statement that other Medicare supplement policies that are on issue age bases should be compared to policies on attained age bases."

Section 13. Article 54 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

1 "§ 58-54-45. By reason of disability.

2 In addition to any rule adopted under this Article that is directly or indirectly
3 related to open enrollment, an insurer shall at least make standardized Medicare
4 Supplement Plan A available to persons eligible for Medicare by reason of disability
5 before age 65. This action shall be taken without regard to medical condition, claims
6 experience, or health status. To be eligible, a person must submit an application
7 during the six-month period beginning with the first month the person first enrolls in
8 Medicare Part B.

9 "§ 58-54-50. Rules for compliance with federal law and regulations.

10 The Commissioner may adopt rules necessary to conform Medicare supplement
11 policies and certificates to the requirements of federal law and regulations, including:

- 12 (1) Requiring refunds or credits if the policies or certificates do not
13 meet loss ratio requirements.
14 (2) Establishing a uniform methodology for calculating and reporting
15 loss ratios.
16 (3) Assuring public access to policies, premiums, and loss ratio
17 information of issuers of Medicare supplement insurance.
18 (4) Establishing standards for Medicare Select policies and
19 certificates."

20
21 **LIFE INSURANCE ILLUSTRATIONS**

22 Section 14. G.S. 58-60-5 reads as rewritten:

23 **"§ 58-60-5. Scope of Article; exemptions.**

24 (a) ~~Except as hereafter exempted,~~ otherwise provided in this Article, this Article
25 ~~shall apply~~ applies ~~to any solicitation, negotiation or procurement of life insurance~~
26 ~~occurring within this State. This Article shall apply~~ applies ~~to any issuer of a life~~
27 ~~insurance contract~~ contract, including fraternal benefit societies.

28 (b) Unless otherwise specifically included, this Article ~~shall~~ does not apply to:

- 29 (1) Annuities,
30 (2) Credit life insurance,
31 (3) Group life insurance,
32 (4) Life insurance policies issued in connection with pension and
33 welfare plans as defined by and ~~which~~ that are subject to the
34 federal Employee Retirement Income Security Act of 1974
35 (ERISA),
36 (5) Variable life insurance under which the death benefits and cash
37 values vary in accordance with unit values of investments held in a
38 separate account.

39 (c) The policy summary in this Article is not required for policies that are sold
40 subject to rules adopted by the Commissioner for life insurance illustrations."

41
42 **CIVIL PENALTY LAW CHANGES**

43 Section 15. G.S. 58-2-70 reads as rewritten:

1 "~~§ 58-2-70. Civil penalties or restitution for violations; summary suspension of license~~
2 ~~or certificate; administrative procedure.~~

3 (a) This section applies to any person who is subject to licensure or certification
4 under the provisions of Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this
5 Chapter.

6 (b) Whenever the Commissioner has reason to believe that any person has
7 violated any of the provisions of the statutes cited in subsection (a) of this section,
8 this Chapter, and the violation subjects the license or certification of that person to
9 suspension or revocation, ~~or whenever the Commissioner has reason to believe that~~
10 ~~any person has violated Article 63 of this Chapter, the Commissioner may issue and~~
11 ~~serve upon that person a written statement of charges and a written notice of hearing,~~
12 ~~to be held at a time and place fixed in the notice. The date for the hearing shall not~~
13 ~~be less than 10 days after the date of service. It shall be sufficient to give such notice~~
14 ~~either by delivering it to the person charged or by sending the notice to the last~~
15 ~~known address of that person by certified mail, return receipt requested. At the time~~
16 ~~and place fixed for the hearing the person charged shall have an opportunity to~~
17 ~~answer the charges against him and present evidence on his behalf. Upon good cause~~
18 ~~shown, the Commissioner may permit any adversely affected person to intervene,~~
19 ~~appear, and be heard at the hearing by counsel or in person. The Commissioner may~~
20 ~~consolidate a hearing under this section with a hearing allowed under G.S. 58-63-25~~
21 ~~where there is common subject matter involved and subject to procedural~~
22 ~~requirements set out in both sections being followed. the Commissioner may, after~~
23 notice and opportunity for a hearing, proceed under the appropriate subsections of
24 this section.

25 (c) ~~In any case where a hearing pursuant to subsection (b) of this section results in~~
26 ~~the findings by the Commissioner of If, under subsection (b) of this section, the~~
27 Commissioner finds a violation of any of the provisions of the statutes cited in
28 subsection (a) of this section, and the violation subjects the license or certification of
29 that person to suspension or revocation, ~~or findings by the Commissioner of a~~
30 ~~violation of Article 63 of this Chapter, the Commissioner may, in addition to or in~~
31 lieu instead of suspending or revoking the license or certification, order the payment
32 of a monetary penalty as provided in subsection (d) of this section or ~~apply to~~
33 petition the Superior Court of Wake County for an order directing payment of
34 restitution as provided in subsection (e) of this section, or both. Each day during
35 which a violation occurs ~~shall constitute~~ constitutes a separate offense. violation.

36 (d) ~~Upon a finding by the Commissioner of a violation as specified in If the~~
37 Commissioner orders the payment of a monetary penalty pursuant to subsection (c)
38 of this section, the ~~Commissioner shall direct the payment of a penalty of not shall~~
39 not be less than one hundred dollars (\$100.00) nor more than one thousand dollars
40 (\$1,000). In determining the amount of the penalty, the Commissioner shall consider
41 the degree and extent of harm caused by the violation, the amount of money that
42 inured to the benefit of the violator as a result of the violation, whether the violation
43 was committed willfully, and the prior record of the violator in complying or failing
44 to comply with laws, rules, or orders applicable to the violator. The penalty shall be

1 payable to the Commissioner, who shall then forward the clear proceeds of which to
2 the State Treasurer for deposit in the General Fund of the State. Payment of the
3 civil penalty under this section shall be in addition to payment of any other penalty
4 for a violation of the criminal laws of this State.

5 (e) Upon ~~application~~ petition of the Commissioner ~~and a finding by the court of a~~
6 ~~violation as specified in subsection (e) of this section,~~ the court may order the person
7 who committed ~~the a~~ a violation specified in subsection (c) of this section to make
8 restitution in an amount that would make whole any person harmed by the violation.
9 The petition may be made at any time and also in any appeal of the Commissioner's
10 order.

11 (f) Restitution to any State agency for extraordinary administrative expenses
12 incurred in the investigation and hearing of the violation may also be ordered by the
13 court in such amount that would reimburse the agency for the expenses.

14 (g) Nothing in this section ~~shall prevent~~ prevents the Commissioner from
15 negotiating a mutually acceptable agreement with any person as to the status of the
16 person's license or certificate or as to any civil penalty or restitution.

17 (h) ~~Notwithstanding subsection (b) of this section, if the Commissioner finds that~~
18 ~~the public health, safety, or welfare requires emergency action and incorporates this~~
19 ~~finding in his order, summary suspension of a license or certificate may be ordered~~
20 ~~effective on the date specified in the order or on service of the certified copy of the~~
21 ~~order at the last known address of the licensee, whichever is later, and effective~~
22 ~~during the proceedings to suspend, revoke, or refuse renewal provided for in~~
23 ~~subsection (b) of this section. The proceedings shall be promptly commenced and~~
24 ~~determined. Unless otherwise specifically provided for, all administrative proceedings~~
25 under this Chapter are governed by Chapter 150B of the General Statutes. Appeals
26 of the Commissioner's orders under this section shall be governed by G.S. 58-2-75."

27

28 NOTICES FROM INDIVIDUAL LICENSEES

29 Section 16. Article 2 of Chapter 58 of the General Statutes is amended by
30 adding a new section to read:

31 "§ 58-2-69. Notification of criminal convictions and changes of address; service of
32 notice.

33 (a) As used in this section:

34 (1) 'License' includes any license, certificate, registration, or permit
35 issued under this Chapter.

36 (2) 'Licensee' means any person who holds a license.

37 (b) Every applicant for a license shall inform the Commissioner of the applicant's
38 residential address. Every licensee shall give written notification to the
39 Commissioner of any change of the licensee's residential address within 10 business
40 days after the licensee moves into the licensee's new residence. This requirement
41 applies if the change of residential address is by governmental action and there has
42 been no actual change of residence location; in which case the licensee must notify
43 the Commissioner within 10 business days after the effective date of the change. A

1 violation of this subsection is not a ground for revocation, suspension, or nonrenewal
2 of the license or for the imposition of any other penalty by the Commissioner.

3 (c) If a licensee is convicted in any court of competent jurisdiction for any crime
4 or offense other than a motor vehicle infraction, the licensee shall notify the
5 Commissioner within 10 days after the date of the conviction. As used in this
6 subsection, 'conviction' includes an adjudication of guilt, a plea of guilty, or a plea of
7 nolo contendere.

8 (d) Notwithstanding any other provision of law, whenever the Commissioner is
9 authorized or required to give any notice under this Chapter to a licensee, the notice
10 may be given personally or by sending the notice by first-class mail to the licensee at
11 the address that the licensee has provided to the Commissioner under subsection (b)
12 of this section.

13 (e) The giving of notice by mail under subsection (d) of this section is complete
14 upon the expiration of four days after the deposit of the notice in the post office.
15 Proof of the giving of notice by mail may be made by the certificate of any employee
16 of the Department."

18 **INSURANCE AGENTS, BROKERS, AND ADJUSTERS**

19 Section 17. G.S. 58-33-25(h) reads as rewritten:

20 "(h) A partnership or corporation that negotiates or solicits insurance may be
21 licensed as an agent, broker, or limited ~~representative provided that it maintains a~~
22 ~~place of business in this State.~~ representative. Every member of the partnership and
23 every officer, director, stockholder, and employee of the corporation personally
24 engaged in this State in soliciting or negotiating policies of insurance shall be
25 registered with the Commissioner and each such member, officer, director,
26 stockholder or employee shall also qualify as an individual licensee. The partnership
27 or corporate licensee shall within 30 days notify the Commissioner of any addition to
28 or deletion from the list of registered individuals."

29 Section 18. G.S. 58-33-30(j) reads as rewritten:

30 "(j) Reciprocity Provision. -- To the extent that other states that provide for the
31 licensing and regulation of and payment of commissions to agents, limited
32 representatives, or brokers, waive restrictions on the basis of reciprocity with respect
33 to North Carolina licensees applying for or holding nonresident licenses in such those
34 states, all such the same restrictions on licensees from such those states applying for
35 or holding North Carolina nonresident licenses shall be waived."

36 Section 19. G.S. 58-33-70 reads as rewritten:

37 "**§ 58-33-70. Special provisions for adjusters and motor vehicle damage appraisers.**

38 (a) It shall be unlawful and cause for revocation of license for a licensed adjuster
39 to engage in the practice of law.

40 (b) On behalf and on request of an insurer by which ~~he is appointed or for which~~
41 ~~he is licensed, any~~ an agent or limited representative is appointed, the agent or
42 limited representative may from time to time act as an adjuster and investigate and
43 report upon claims without being required to be licensed as an adjuster, provided: In
44 no event may any adjuster. No agent or limited representative shall adjust any losses

1 ~~in any amount~~ where ~~his~~ the agent's or representative's remuneration for the sale of
2 insurance is in any way dependent upon the adjustment of ~~such~~ those losses.

3 (c) Upon the filing of the application for ~~the license as adjuster and an adjuster's~~
4 license, the advance payment of the examination fee ~~and upon fee, and~~ the filing with
5 the Commissioner of a certificate signed by the ~~employer of the applicant~~ certifying
6 ~~that the applicant is an individual of good character and is employed by the signer of~~
7 ~~the certificate and will operate as a student or learner under the instruction and~~
8 ~~general supervision of a licensed adjuster, and that the employer will be responsible~~
9 ~~for the adjustment acts of the learner during the learning period; applicant's~~
10 employer, the Commissioner may issue ~~to the applicant~~ a learner's permit authorizing
11 the applicant to act as an adjuster for a learning period of 90 days without a
12 requirement of any other ~~or additional license; provided that not~~ license. Not more
13 than one ~~learner~~ learner's permit shall ever be issued to one individual. The
14 employer's certificate required by this subsection shall certify that:

- 15 (1) The applicant is an individual of good character.
16 (2) The applicant is employed by the signer of the certificate.
17 (3) The applicant will operate as a student or learner under the
18 instruction and general supervision of a licensed adjuster.
19 (4) The employer will be responsible for the adjustment acts of the
20 applicant during the learning period.

21 (d) ~~No license shall be required of an adjuster licensed as such in another state for~~
22 ~~the adjustment in this State of a single loss, or of losses arising out of a catastrophe~~
23 ~~common to all such losses; provided that such adjuster notifies the Commissioner in~~
24 ~~writing prior to the adjusting of such loss or losses.~~

25 (e) The Commissioner may permit an experienced adjuster, who regularly adjusts
26 in another state and who is licensed in ~~such~~ the other state (if ~~such~~ that state requires
27 a license), to act as an adjuster in this State without a North Carolina ~~license; license~~
28 only for an insurance company authorized to do business in this State, for emergency
29 insurance adjustment work, for a period ~~of not exceeding 30 days; to be determined~~
30 by the Commissioner, done for an employer who is an adjuster licensed by this State
31 or who is a regular employer of one or more adjusters licensed by this State;
32 provided that the employer shall furnish to the Commissioner a notice in writing
33 immediately upon the beginning of any such emergency insurance adjustment work.
34 As used in this subsection, 'emergency insurance adjustment work' includes, but is
35 not limited to, (i) adjusting of a single loss or losses arising out of an event or
36 catastrophe common to all of those losses or (ii) adjusting losses in any area declared
37 to be a state of disaster by the Governor under G.S. 166A-6 or by the President of the
38 United States under applicable federal law.

39 (f) The Commissioner may permit an experienced motor vehicle damage
40 appraiser who is regularly appraising in another state and who is licensed in such
41 other state (if ~~such~~ that state requires a license) to act as a motor vehicle damage
42 appraiser in this State without a North Carolina license for emergency motor vehicle
43 damage appraisal work for a period not exceeding 30 days done for an employer who

1 notifies the Commissioner, in writing, at the beginning of the period of emergency
2 appraisal work and who is:

- 3 (1) An insurance adjuster licensed by this State;
- 4 (2) A motor vehicle damage appraiser licensed by this State;
- 5 (3) A regular employer of one or more insurance adjusters licensed by
6 this State; or
- 7 (4) A regular employer of one or more motor vehicle damage
8 appraisers licensed by this State."

9 Section 20. G.S. 58-33-130(c) reads as rewritten:

10 "~~(c) On and after January 1, 1992, any individual agent or broker desiring to~~
11 ~~renew an appointment or license shall offer evidence satisfactory to the~~
12 ~~Commissioner that he has complied with the continuing professional education~~
13 ~~requirements approved by the Commissioner. The license of any person who fails to~~
14 comply with the continuing education requirements under this section shall lapse.
15 The Commissioner may, for good cause shown, grant extensions of time to licensees
16 to comply with these requirements."

17 Section 21. G.S. 58-33-130(h) reads as rewritten:

18 "(h) Any licensee ~~who~~ who, after obtaining an extension under subsection (c) of
19 this section, offers evidence satisfactory to the Commissioner on forms prescribed by
20 ~~the Commissioner that he~~ that the licensee has satisfactorily completed the required
21 continuing professional education courses shall be deemed to have complied is in
22 compliance with this section."

24 TOWN AND COUNTY MUTUALS FINANCIAL REPORTS

25 Section 22. G.S. 58-2-165 reads as rewritten:

26 "**§ 58-2-165. Annual, semiannual, monthly, or quarterly statements to be filed with**
27 **Commissioner.**

28 (a) Every insurance company shall file in the Commissioner's office, on or before
29 March 1 of each year, a statement showing the business standing and financial
30 condition of the company, association, or order on the preceding December 31,
31 signed and sworn to by the chief managing agent or officer thereof, before the
32 Commissioner or some officer authorized by law to administer oaths. Provided, the
33 Commissioner may, for good and sufficient cause shown by an applicant company,
34 extend the filing date of the company's annual statement, for a reasonable period of
35 time, not to exceed 30 days. In addition, the Commissioner may require any
36 insurance company, association, or order to file its statement semiannually, quarterly,
37 or ~~monthly~~ monthly, except that a town or county mutual, organized under G.S. 58-
38 7-75(5)d., is required to file only an annual statement if for the preceding year it had
39 a direct written premium of less than one hundred fifty thousand dollars (\$150,000)
40 and fewer than 400 policyholders.

41 (b) The Commissioner may require statements under this section, G.S. 58-2-170,
42 and G.S. 58-2-190 to be filed in a format that can be read by electronic data
43 processing equipment.

1 (c) All statements filed under this section must be prepared in accordance with
2 the appropriate NAIC Annual Statement Instructions Handbook and pursuant to the
3 NAIC Accounting Practices and Procedures Manual and on the NAIC Model
4 Financial Statement Blank, unless further modified by the Commissioner as the
5 Commissioner considers to be appropriate."

6

7 BAIL BONDSMEN AND RUNNERS

8 Section 23. G.S. 58-71-50 reads as rewritten:

9 "§ 58-71-50. Qualification for bail bondsmen and runners.

10 (a) An applicant for a license as a bail bondsman or ~~runner, must~~ runner shall
11 furnish the Commissioner with a complete set of the applicant's fingerprints and a
12 recent passport size full-face photograph of the applicant. The applicant's fingerprints
13 shall be certified by an authorized law-enforcement officer. The fingerprints of every
14 applicant shall be forwarded to the State Bureau of Investigation for a search of the
15 applicant's criminal history record file, if any. If warranted, the State Bureau of
16 Investigation shall forward a set of the fingerprints to the Federal Bureau of
17 Investigation for a national criminal history record check. An applicant shall pay the
18 cost of the State and any national criminal history record check of the applicant.

19 (b) Every applicant for a license under this Article as a bail bondsman or runner
20 must meet all of the following qualifications:

- 21 (1) Be 18 years of age or over.
- 22 (2) Be a resident of this State.
- 23 ~~(3) Be a person of good moral character and not have been convicted~~
24 ~~of a felony or any crime involving moral turpitude.~~
- 25 (4) Have knowledge, training, or experience of sufficient duration and
26 extent to provide the competence necessary to fulfill the
27 responsibilities of a licensee.
- 28 (5) Have no outstanding bail bond obligations.
- 29 (6) Have no current or prior violations of any provision of this Article
30 or of Article 26 of Chapter 15A of the General Statutes or of any
31 similar provision of law of any other state.
- 32 (7) Not have been in any manner disqualified under the laws of this
33 State or any other state to engage in the bail bond business."

34 Section 24. G.S. 58-71-80 reads as rewritten:

35 "§ 58-71-80. Grounds for denial, suspension, revocation or refusal to renew licenses.

36 (a) The Commissioner may deny, suspend, ~~or revoke~~ revoke, or refuse to renew
37 any license ~~issued~~ under this Article for any of the following causes:

- 38 (1) For any cause sufficient to deny, suspend, or revoke the license
39 under any other provision of this Article.
- 40 ~~(2) Violation of any laws of this State relating to bail~~ A conviction of
41 any misdemeanor committed in the course of dealings under the
42 license issued by the Commissioner.
- 43 (3) Material misstatement, misrepresentation or fraud in obtaining the
44 license.

- (4) Misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.
- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) Conviction of a felony ~~regardless of the time the conviction occurred and regardless of whether the conviction resulted from conduct in or related to the bail bond business:~~ crime involving moral turpitude.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or who has been in any manner disqualified under the bail bond laws of this State or any other state, whereby the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (15) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.

~~(b) The Commissioner, in lieu of revoking or suspending a license in accordance with the provisions of this Article, may, in any one proceeding, by order, require the licensee to pay to the school fund in the licensee's county of residence a civil penalty of two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure to pay the penalty within 20 days after the order is mailed, postage prepaid, registered and addressed to the licensee's last known place of business, unless the order is~~

1 ~~stayed by an order of the court of competent jurisdiction or unless the Commissioner~~
2 ~~has already suspended or revoked the license of the licensee, the Commissioner may~~
3 ~~revoke the license or may suspend the license for any period.~~

4 (b) The Commissioner shall deny, revoke, or refuse to renew any license under
5 this Article if the applicant or licensee is or has ever been convicted of a felony."

6 Section 25. G.S. 58-71-71(a) reads as rewritten:

7 "(a) In order to be eligible to take the examination required to be licensed as a
8 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 20
9 12 hours of education in subjects pertinent to the duties and responsibilities of a
10 runner or bail bondsman, including all laws and regulations related to being a runner
11 or bail bondsman."

12 Section 26. G.S. 58-71-71(b) reads as rewritten:

13 "(b) Each year every licensee shall complete at least ~~40~~ six hours of continuing
14 education in subjects related to the duties and responsibilities of a runner or bail
15 bondsman before renewal of the license. This continuing education shall not include
16 a written or oral examination. A person who receives his first license on or after
17 January 1 of any year does not have to comply with this subsection until the period
18 between his first and second license renewals."

19 Section 27. G.S. 58-71-165 reads as rewritten:

20 "**§ 58-71-165. Monthly report required.**

21 Each professional bail bondsman and surety bondsman shall file with the
22 Commissioner ~~of Insurance~~ a written report in form prescribed by the Commissioner
23 regarding all bail bonds on which the bondsman is liable as of the first day of each
24 month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the
25 principal sum of the bond, (iv) the State or local official to whom given, and (v) the
26 fee charged for the bonding service in each instance. The report shall be filed on or
27 before the fifteenth day of each month. ~~Within the same time, a copy of this written~~
28 ~~report must also be filed with the clerk of superior court in any county in which the~~
29 ~~bondsman is obligated on bail bonds.~~ Any person who knowingly and willfully
30 falsifies a report required by this section is guilty of a Class I felony."

31 Section 28. G.S. 58-71-71(e) reads as rewritten:

32 "~~(e) Any person who falsely represents to the Commissioner that the requirements~~
33 ~~of this section have been met is subject, after notice and opportunity for hearing, to~~
34 ~~G.S. 58-2-70. The license of any person who fails to comply with the continuing~~
35 ~~education requirements under this section shall lapse. The Commissioner may, for~~
36 ~~good cause shown, grant extensions of time to licensees to comply with these~~
37 ~~requirements. Any licensee who, after obtaining an extension under this subsection,~~
38 ~~offers evidence satisfactory to the Commissioner that the licensee has satisfactorily~~
39 ~~completed the required continuing professional education courses is in compliance~~
40 ~~with this section."~~

41 Section 29. G.S. 58-71-85(a) reads as rewritten:

42 "(a) The suspension or revocation of, or refusal to renew, any license under G.S.
43 58-71-80 shall be in accordance with the provisions of ~~Article 3A of Chapter 150B of~~
44 the General Statutes."

Section 30. G.S. 58-71-20 reads as rewritten:

"§ 58-71-20. Surrender of defendant by surety; when premium need not be returned.

At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed; in such case the full premium shall be ~~returned~~ returned within 72 hours after the surrender. The defendant may be surrendered without the return of premium for the bond if ~~he has been guilty of nonpayment of premium, changing address without notifying his bondsman, concealing himself, leaving the jurisdiction of the court without the permission of his bondsman or violating his obligation to the court. the defendant does any of the following:~~

- (1) Willfully fails to pay the premium to the surety or willfully fails to make a premium payment under the agreement specified in G.S. 58-71-167.
- (2) Changes his or her address without notifying the surety before the address change.
- (3) Physically hides from the surety.
- (4) Leaves the State without the permission of the surety.
- (5) Violates any order of the court."

Section 31. G.S. 58-71-95(5) reads as rewritten:

- "(5) Accept anything of value from a principal or from anyone on behalf of a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond; provided that the bondsman shall be permitted to accept collateral security or other indemnity from a principal or from anyone on behalf of a principal. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond and shall be returned ~~upon~~ within 72 hours after final termination of liability on the bond."

VIATICAL SETTLEMENT PROVIDERS

Section 32. G.S. 58-58-42(j) reads as rewritten:

"(j) Authority to Adopt Standards. -- The Commissioner may:

- (1) Adopt rules to implement this section.
- (2) Establish standards for evaluating reasonableness of payments under contracts. This authority includes regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy.
- (3) Establish appropriate registration and other regulatory requirements for brokers.
- (4) ~~Require a bond."~~

1 HOME INSPECTORS

2 Section 33. G.S. 143-151.45 reads as rewritten:

3 "§ 143-151.45. Definitions.

4 The following definitions apply in this Article:

- 5 (1) Associate home inspector. -- An individual who is affiliated with or
6 employed by a licensed home inspector to conduct a home
7 inspection of a residential building on behalf of the licensed home
8 inspector.
- 9 (2) Board. -- The North Carolina Home Inspector Licensure Board.
- 10 (3) Compensation. -- A fee or anything else of value.
- 11 (4) Home inspection. -- A written evaluation of ~~one~~ two or more of
12 the following components of a residential building: heating system,
13 cooling system, plumbing system, electrical system, structural
14 components, foundation, roof, masonry structure, exterior and
15 interior components, or any other related residential housing
16 component.
- 17 (5) Home inspector. -- An individual who engages in the business of
18 performing home inspections for compensation.
- 19 (6) Residential building. -- A structure intended to be, or that is in
20 fact, used as a residence by one or more individuals."

21 Section 34. G.S. 143-151.52 reads as rewritten:

22 "§ 143-151.52. Requirements to be licensed as an associate home inspector.

23 To be licensed as an associate home inspector, a person must do all of the
24 following:

- 25 (1) Submit a completed application to the Board upon a form
26 provided by the Board.
- 27 (2) Pass a licensing examination prescribed by the Board.
- 28 (3) Pay the applicable fees.
- 29 (4) Have a high school diploma or its equivalent.
- 30 (5) Be employed by or affiliated with or intend to be employed by or
31 affiliated with a licensed home inspector and submit a sworn
32 statement by the ~~that~~ licensed home inspector ~~with whom the~~
33 applicant is or intends to be affiliated certifying that the licensed
34 home inspector will actively supervise and train the applicant."

35 Section 35. G.S. 143-151.53 reads as rewritten:

36 "§ 143-151.53. Notification ~~of to~~ applicant following evaluation of application.

37 ~~The Board must review each application for a license submitted to it and must~~
38 ~~notify each applicant that the application is either accepted or rejected. The Board~~
39 ~~must send the notification of acceptance or rejection within 30 days of receiving the~~
40 ~~application. If the Board rejects an application, the notice sent to the applicant must~~
41 ~~state the reasons for the rejection. If the Board finds that the applicant has not met~~
42 fully the requirements for licensing, the Board shall refuse to issue the license and
43 shall notify in writing the applicant of the denial, stating the grounds of the denial.
44 The application may also be denied for any reason for which a license may be

1 suspended or revoked or not renewed under G.S. 143-151.56. Within 30 days after
2 service of the notification, the applicant may make a written demand upon the Board
3 for a review to determine the reasonableness of the Board's action. The review shall
4 be completed without undue delay, and the applicant shall be notified promptly in
5 writing as to the outcome of the review. Within 30 days after service of the
6 notification as to the outcome, the applicant may make a written demand upon the
7 Board for a hearing under Article 3A of Chapter 150B of the General Statutes if the
8 applicant disagrees with the outcome."

9 Section 36. G.S. 143-151.56 reads as rewritten:

10 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

11 (a) The Board may deny or refuse to issue or renew a license, may suspend or
12 revoke a license, or may impose probationary conditions on a license if the license
13 holder or applicant for licensure has engaged in any of the following conduct:

- 14 (1) Employed fraud, deceit, or misrepresentation in obtaining or
15 attempting to obtain or renew a license.
- 16 (2) Committed an act of malpractice, gross negligence, or
17 incompetence in the practice of home inspections.
- 18 (3) Without having a current license, either performed home
19 inspections for compensation or claimed to be licensed.
- 20 (4) Engaged in conduct that could result in harm or injury to the
21 public.
- 22 (5) Been convicted of or pled guilty or nolo contendere to any ~~crime~~
23 misdemeanor involving moral turpitude: turpitude or to any felony.
- 24 (6) Been adjudicated ~~insane or incompetent and has not presented~~
25 proof of recovery from the condition: incompetent.
- 26 (7) Engaged in any act or practice that violates any of the provisions of
27 this Article or any rule issued by the Board, or aided, abetted, or
28 assisted any person in a ~~violation: violation of any of the provisions~~
29 of this Article.

30 (b) A denial of licensure, refusal to renew, suspension, revocation, or imposition
31 of probationary conditions upon a license holder may be ordered by the Board after a
32 hearing held in accordance with Article 3A of Chapter 150B of the General Statutes
33 and rules adopted by the Board. An application may be made to the Board for
34 reinstatement of a revoked license if the revocation has been in effect for at least one
35 year."

36
37 **MANUFACTURED HOME DEALERS**

38 Section 37. Article 9A of Chapter 143 of the General Statutes is
39 amended by adding a new section to read:

40 **"§ 143-143.21B. Dealer cancellation; deposit refund.**

41 A dealer shall refund to a buyer the full amount of a deposit on the purchase of a
42 manufactured home if the buyer has fulfilled his obligations under the purchase
43 agreement and the dealer cancels the purchase at any time."
44

1 EFFECT OF HEADINGS

2 Section 38. The headings to the parts of this act are a convenience to the
3 reader and are for reference only. The headings do not expand, limit, or define the
4 text of this act.

6 EFFECTIVE DATES

7 Section 39. This section and Sections 1, 3, 4, 5, 6, 7, 10, 11, 14, 15, 17, 18,
8 22, 27, 29, 32, 33, and 34 of this act are effective when they become law; provided
9 that the disclosure requirement in G.S. 58-3-5, as enacted in Section 1 of this act,
10 applies only to annuity agreements issued on or after October 1, 1998. Section 19 of
11 this act becomes effective September 1, 1998. Sections 2, 9, 12, 13, 20, 21, 23, 24, 25,
12 28, 30, 31, 35, 36, and 37 of this act become effective October 1, 1998. Sections 8, 16,
13 and 26 of this act become effective January 1, 1999.

**NORTH CAROLINA DEPARTMENT OF INSURANCE
MEMORANDUM**

August 5, 1998

TO: Senate Pensions/Retirement/Insurance Committee

FROM: Bill Hale *WKH*

SUBJECT: PCS for House Bill 926 -- Miscellaneous Insurance Amendments

Section 1: Provides that the insurance laws do not apply to the issuance of charitable gift annuities. Specifies what kind of organizations may issue these annuities and how.

Section 2: Prohibits property and liability insurers from discriminating against public officials.

Section 3: Exempts aviation insurance from the Surplus Lines Act.

Sections 4 and 5: Amend the insurance company and HMO bankruptcy laws to make them conform to one another.

Section 6: Updates a cross reference to a tax law that appears in the Beach Plan law.

Section 7: Provides that coverage under the Health Insurance Program for Children counts as creditable coverage for the Health Insurance Portability and Accountability Act.

Section 8: Addresses the provision in the condominium laws about who can or has to maintain property insurance on the units in a condominium complex. Under present North Carolina law, the condo association must maintain the property insurance on the common elements and units. These sections allow the unit owners to buy the insurance in units that do not have horizontal boundaries (are not "stacked").

Section 9: Brings the Small Employer Group Health Insurance Act into compliance with federal law for persons who are late in enrolling in health plans.

Section 10: Clarifies that nothing in the Small Employer Group Health Insurance Act affects the Commissioner's rate approval authority in the rate laws for service corporations and HMOs.

Section 11: Under the Small Employer Group Health Insurance Act, a carrier must elect to either assume all risk or participate in the reinsurance pool under the Act. This makes it clear that all carriers entering the market must elect and have the same time frames (two

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years initially and five years after that) for the elections as did the carriers that were in the market when the Act became effective.

Section 12: Requires disclosure by Medicare supplement insurers of the practice of attained age rating, which means increases in premiums as a policyholder gets older.

Section 13: Certain disabled persons are eligible for Medicare before they reach age 65. This requires Medicare supplement insurance companies to make one of the ten standard plans (Plan A) available to those persons without underwriting. It also adds language to our laws that provides for administrative rules that conform with federal law on Medicare supplement insurance.

Section 14: Under the life insurance disclosure laws, eliminates a requirement to deliver a policy summary if the insurance company provides what are known as life insurance illustrations to their prospective customers.

Section 15: Changes the law on hearings and civil penalties for insurance licensees by replacing antiquated notice and hearing provisions with a requirement that the Commissioner proceed after notice and opportunity for a hearing and by clearly making all administrative proceedings under Chapter 58 subject to the Administrative Procedure Act, unless otherwise specifically provided.

Section 16: Adds a law requiring that an individual licensee notify the Commissioner within 10 days after the date of conviction of any crime or offense other than motor vehicle infraction. Requires every license applicant to inform the Commissioner of the applicant's address and requires every individual licensee to give written notification to the Commissioner of any change in the licensee's residential address within 10 business days after the change. Further provides that when the Commissioner is required to give a notice to a licensee, the Commissioner may mail the notice by first class mail to the address that the licensee has provided.

Section 17: Deletes the requirement that a nonresident corporate or partnership licensed insurance agency maintain a place of business in North Carolina.

Section 18: Clarifies the agent licensing reciprocity law so it applies to applicants for licenses as well as persons already licensed.

Section 19: Rewrites the law allowing an experienced adjuster licensed in another state to act as an adjuster in North Carolina without a license if the adjuster is doing "emergency

insurance adjustment work", which includes adjusting losses arising out of a catastrophe common to all those losses and losses in an area that is declared a disaster by the Governor or the President. Eliminates conflicting language covering the same situation.

Sections 20 and 21: Provide that the license of any agent or adjuster lapses if the agent or adjuster fails to comply with continuing education requirements and provides for extensions of time to comply with the requirements, for good cause shown.

Section 22: Eliminates the requirement for quarterly financial reports from farm mutual insurers that have fewer than 400 policyholders and less than \$150,000 in premiums.

Sections 23 and 24: Remove a requirement that an applicant for bondsman's or runner's license be of "good moral character" and not have been convicted of a felony or any crime involving moral turpitude. In its place is a provision to allow the Commissioner to deny, suspend, revoke, or refuse to renew a bondsman's or runner's license if the applicant or licensee is convicted of a crime involving moral turpitude; and to require the Commissioner to deny, revoke, or refuse to renew the application or license if an applicant or licensee has ever been convicted of a felony. Repeals a redundant civil penalty law for bondsmen and runners.

Sections 25 and 26: Reduce the required prelicensing education hours from 20 to 12 and reduce the annual continuing education hours from 10 to 6 for bondsmen and runners.

Section 27: Deletes an unnecessary requirement that bail bondsmen file copies of monthly reports (to the Department) with clerks of court.

Section 28: Provides that a bondsman's or runner's license lapses for failure to comply with continuing education requirements and that the Commissioner may grant extensions of time to comply for good cause shown.

Section 29: Deletes a redundant reference to the Administrative Procedure Act.

Sections 30 and 31: Clarify a bail bondsman license statute that was criticized by the North Carolina Court of Appeals in a recent case (*State v. Ipock*) as being unclear.

Section 32: Repeals the bond requirement for viatical settlement providers. A viatical settlement is a contract in which the owner of a life insurance policy who has a catastrophic illness transfers it to another person (the viatical settlement provider) in exchange for payment of less than the expected death benefit of the policy.

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Sections 33 through 36: Make numerous technical amendments and corrections to the law that created the Home Inspector Licensure Board. Also change the requirement that the Board act on a license application within 30 days after receipt. If an applicant does not meet the licensing requirements, the Board must refuse to issue a license and notify the applicant in writing of grounds for the denial. The applicant then has 30 days to demand that the Board review its action and 30 days after that review to demand a hearing under the Administrative Procedure Act.

Section 37: Adds a provision to the manufactured home dealer licensing law that clarifies the fact that a dealer must refund all of the buyer's deposit when the dealer cancels the sale contract and the buyer has fulfilled his or her obligations.

Section 38: Provides that the headings in the bill are not substantive.

Section 39: Effective dates.



North Carolina General Assembly
Legislative Services Office

George R. Hall, Legislative Services Officer
(919) 733-7044

Elaine W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Tony C. Goldman, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

July 22, 1998

MEMORANDUM

TO: Senate Pensions & Retirement and Insurance Committee

FROM: Linwood Jones, Staff Counsel *LJ*

RE: Proposed Senate Committee Substitute
for House Bill 926

The following is a summary of the provisions of the proposed Senate Committee Substitute for House Bill 926. Many of these provisions, or similar provisions, were passed by the Senate last year in Senate Bill 614 and Senate Bill 797. Those provisions are marked with an asterik below:

Section 1. Charitable annuities. Many public and private universities, as well as other nonprofit organizations, give annuities to donors in exchange for the donation of stocks, bonds, real estate, or other property. An annuity is a contract of insurance. Thus, the insurance laws technically require the university or other organization to be licensed as an insurance company and anyone soliciting donations on behalf of the university or other organization in exchange for an annuity to be licensed as an insurance agent. Section 1 of the bill amends the law to state that nonprofit organizations that have been active for 5 or more years and public educational institutions are not required to become licensed as insurance companies in order to issue annuities in exchange for charitable donations, nor are their officers, directors, employees, or agents required to be licensed as insurance agents. However, each such charitable annuity agreement entered into on or after October 1, 1998, must contain a statement disclosing that charitable annuities are not regulated by the State of North Carolina and that they are not backed up by the State or by any insurance guaranty fund.

****Section 2. Electronic signatures.*** Section 2 requires that group life, group health, and group annuity forms used by out of state associations covering North Carolinians must be filed with and approved by the Commissioner. This section also authorizes the

Commissioner of Insurance to adopt regulations on the use of electronic signatures on insurance policies and policy forms. (*Only the first part was in SB 797).

Section 3. Discriminatory insurance practices against elected officials. Section 3 prohibits an insurance company from refusing to issue, refusing to renew, canceling, or limiting coverage in a property or liability insurance policy solely because the policyholder is a public elected official.

Section 4. Aviation insurance. Section 4 provides that aviation insurance is not surplus lines insurance.

Sections 5 and 6. HMO solvency claims priorities. Section 6 repeals the HMO law on priority of distribution of assets of an insolvent HMO. That law referred to priority list in the general rehabilitation laws for insolvent insurance companies. Section 5 sets out within the general rehabilitation law the status of HMO enrollees and providers as far as their priority in the distribution of assets from an insolvent HMO.

Section 7. N.C. Insurance Underwriting Association technical amendment. Section 7 corrects an outdated statutory reference in the laws governing the NCIUA.

Section 8. Children's Health Insurance coverage is creditable coverage. Last year, the General Assembly revised the insurance portability laws. The portability laws determine when an individual moving from one insurance plan to another can count the time under the first plan to satisfy any pre-existing condition waiting period under the new plan. Section 8 adds coverage under the recently-enacted Health Insurance Program for Children as "creditable coverage" – i.e., a child moving from that Program to another insurance plan can count coverage under the Program in satisfying any waiting period under the new plan (if there is no more than a 63-day gap in coverages).

Section 9. Condominium insurance. The North Carolina Condominium Act requires the condominium association to purchase property insurance on both the common elements and the individual condominium units. The national Uniform Condominium Act on which the North Carolina Condominium Act was based requires the association to purchase property insurance on individual units only when those units share horizontal boundaries (i.e., stacked units). Section 9 would restore the Uniform Act provision: i.e., except in cases of stacked units, the association is not legally required to obtain the property insurance on the individual units.

Section 10. Late enrollee. Section 10 changes the definition of a "late enrollee" under the small employer group health insurance laws to be consistent with the definition of "late enrollee" under the health reform legislation passed by the legislature last year, while retaining the requirement that an initial enrollment period under small employer plans be 30 days and retaining certain provisions under which an employee is not deemed to be a late enrollee.

***Section 11. "Self-employed" definition.** Section 10 changes the definition of a "self-employed individual" under the Small Employer Group Health Insurance laws so that an

attempt to produce business income, rather than the actual production of income, is part of the measuring stick for determining whether an individual qualifies as a self-employed individual under the small employer group insurance laws.

***Section 12. Small employer carrier.** Within the health insurance market for small employers (50 or employees or less), the insurance companies charge an adjusted community rate. Section 11 of the bill requires each insurer to use all of its small employer market experience in North Carolina in calculating the rate. If this experience is not sufficiently credible from an actuarial perspective to develop the rate, the insurer may then blend in large employer group experience. Section 11 also requires the insurer to file its adjusted community rating methodology, rating factors, and any changes thereto with the Commissioner.

***Section 13. Durational coverage.** Section 13 eliminates durational coverage as one of the factors that can be used by a small employer carrier to adjust its rate for a small employer. Health status and experience can continue to be used as factors, up to a specified maximum adjustment.

***Section 14. Approval of HMO and hospital/medical service corporation rates.** Section 14 provides that the small employer group health insurance laws do not override or affect the Commissioner's authority to approve the rates charged by HMOs and hospital, medical, and dental service corporations.

***Section 15. Carrier election.** Section 15 states that all insurance carriers entering the small employer market are bound by the same 2-year and 5-year requirements that applied to insurance carriers in the market when small group reform was passed several years ago. The time requirements relate to the duration of an election made by the carrier on whether to be a risk-assuming carrier or a reinsuring carrier under the small employer group reform laws.

***Section 16. Conversion privilege notification.** Section 16 requires an employer to notify the former employee when he loses eligibility for continuation coverage. Eligibility may be lost by any of the following: 18 months has expired; the former employee stops paying premium; the former employee has become eligible for other group health insurance with similar benefits; the employer terminates its group health insurance for its employees.

Section 17. Medicare supplemental insurance "attained age" rating. Section 17 requires that an insurance company selling Medicare supplemental policies cannot base premiums on the policyholder's *attained* age (where premiums increase as the policyholder ages) unless it has clearly disclosed this to the policyholder. The disclosure must include an illustration showing projected premium increases over the next years, a statement that *attained age rating* means premiums will go up as the policyholder gets older, and a statement that premiums for other supplemental policies may be determined on an issue age basis and that those premiums would not increase with attained age.

***Section 18. Medicare supplemental insurance for disabled; rules.** Section 18 requires insurers who sell Medicare supplemental insurance to make the most basic of the 10 supplemental policies (Plan A) available to persons who are on Medicare by reason of disability without regard to the person's medical condition or health status.

This section also authorizes the Commissioner of Insurance to adopt rules necessary to conform Medicare supplemental policies to the requirements of federal law.

***Section 19. Life Insurance Illustrations.** Section 19 provides that a policy summary is not required for policies sold subject to rules of the Commissioner for life insurance illustrations. (The summary would have duplicated the life insurance illustration). An "illustration" shows the purchaser the investment value and worth of the policy over time.

***Sections 20 and 21. Civil penalty changes.** The Supreme Court recently ruled that the North Carolina Constitution's requirement that "fines and forfeitures" go to the county school funds applied not only to criminal fines, but to civil penalties also. Many statutes still show those funds going to the State's General Fund, although the State Treasurer sends them to the county schools in accordance with the court decision. Sections 20 and 21 conform the civil penalty statutes under the insurance laws to the court decision. Section 20 also amends the primary hearing statute under the insurance law to tie it specifically to the Administrative Procedures Act.

***Section 22. Notices from individual licenses.** Section 22 provides that each individual who holds a license from the Department of Insurance must notify the Department of his or her residential address, any change in that address, and any criminal conviction (excluding motor vehicle infractions). The section also provides that the Commissioner may use this address to serve notices under the insurance laws.

Section 23. Place of business of insurance agent partnerships/corps. Section 23 eliminates the requirement that a partnership or corporation that is licensed as an agent, broker, or limited representative must have a place of business in North Carolina.

Section 24. Reciprocity for out-of-state agents. This section clarifies that the reciprocity law for agents, brokers, and limited representatives applies to applicants for licensure also.

***Section 25. Adjusters.** Section 25 rewrites the laws governing adjusters from out-of-state doing emergency adjusting work in this State. The 30-day limit in the current law on such adjusting is replaced with a time period "to be determined by the Commissioner."

***Sections 26 and 27. Continuing education completion.** Currently, G.S. 58-33-130(c) requires an agent or broker to provide evidence to the Commissioner of Insurance of completion of required continuing education in order to renew an

appointment with an insurer or renew his license. Section 24 rewrites this provision to provide that the agent's or broker's license lapses for failure to timely comply with the continuing education requirements (subject to extensions of time granted by the Commissioner for good cause). Section 25 makes a conforming change to another section of the same statute.

Section 28. Farm mutuals quarterly reports. Section 28 provides that the smallest farm mutuals -- those with less than \$150,000 in written premium and fewer than 400 policyholders -- are not required to file quarterly financial reports with the Department of Insurance. However, they must continue filing the annual financial statements. Based on the most recent information available, 3 of the 17 farm mutuals in North Carolina would come under the exemption from quarterly reporting.

***Sections 29 and 30. Bail bondsmen and runners.** Section 29 repeals the requirement in GS 58-71-70 that an applicant for a bail bondsman or runner's license be of good moral character and not have been convicted of a felony or a crime of moral turpitude. Section 30 is amended to *allow* the Commissioner to deny, revoke, or refuse to renew a bail bondsman or runner's license for the conviction of a misdemeanor or any crime involving moral turpitude. Section 30 is also amended to *require* the Commissioner to deny, revoke, or refuse to renew the license if the applicant or licensee has ever been convicted of a felony.

***Section 31. Bail bondsman pre-licensing education.** Section 32 reduces from 20 to 16 the number of hours of educational training in bail bond laws that an applicant must have in order to take the examination for licensure as a bail bondsman or runner.

***Section 32. Bail bondsmen continuing education.** Section 32 reduces from 10 to 8 the number of annual continuing education hours required of bail bondsmen and runners.

***Section 33. Monthly bail bond reports.** Section 33 eliminates the requirement that a bail bondsman file a duplicate of his monthly bond report to the Commissioner with the clerk of superior court in each county in which the bondsman is obligated on bonds. (The report, which includes information on who is bonded, the amount of the bond, and the charge for the bond, must continue to be submitted to the Commissioner).

***Section 34. Bail bondsman continuing education/lapse.** Section 34 provides for the automatic lapse of a bondsman or runner's license for failure to meet the continuing education requirements. The Commissioner may grant extensions of time to complete continuing education requirements for good cause shown.

Section 35. APA reference. Section 35 makes clear that all of the applicable provisions of the APA hearing statutes apply to a disciplinary hearing for a bondsman or runner.

Sections 36 and 37. Surrender of defendant/premium refund. Section 36 rewrites the law on surrendering a defendant to (1) provide a definite time (72 hours) by which a

surety must refund the premium for surrendering a defendant and (2) adding more specificity to the conditions under which the defendant can be surrendered without return of premium: failure to pay the premium, change of address without notifying the surety, physically concealing himself from the surety, leaving the judicial district, or violating a court order. Section 37 makes a conforming change to another statute.

***Section 38. Viatical settlement provider bonding.** Section 38 eliminates the authority of the Commissioner of Insurance to require viatical settlement companies to provide a bond.

***Sections 39 and 40. Home Inspectors.** Section 39 amends the definition of an associate home inspector to be an individual who is employed by *or affiliated with* a licensed home inspector. A conforming change is made in Section 40 also. This section also amends the definition of a "home inspection" so that a written evaluation of only one component of a home (such as the electrical system only, or the plumbing system only) is not considered a "home inspection." At least *two* components must be evaluated before the evaluation is deemed a home inspection.

***Section 41. Home Inspector licensure rejection process.** Section 41 amends the process for the Home Inspector Licensure Board when it rejects an application for licensure. The Board must notify the applicant of the reasons for disapproval. The applicant may, within 30 days, demand that the Board review its decision. The Board must complete the review without undue delay. The applicant may appeal under the APA if he is disapproved again.

***Section 42. Home inspector licensure/criminal convictions.** Section 42 provides that any misdemeanor involving moral turpitude and any felony is grounds for denial, suspension, or revocation of a home inspector license. Current law provides that any crime involving moral turpitude is grounds therefor. This section also rewrites the provision on denial, suspension, and revocation of the license for adjudication of incompetency.

Section 43. Manufactured home dealer refunds. Section 43 provides that a dealer must refund to the buyer the full amount of his or deposit on a manufactured home if the buyer has fulfilled his obligations and the dealer cancels the purchase.

Section 44. Headings. This section provides that the headings in the bill cannot be used to interpret the provisions in the bill.

Section 45. Effective dates. This section provides for various effective dates, ranging from when the bill becomes law to January 1, 1999.

H. B. No. 925

DATE 8/5/98

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

Rep.)

Sen.)

~~R. Martin~~ Carpenter

moves to amend the bill on page 14, line 38

by inserting the following phrase between the words
"Statement" and "if":

"or an audited financial statement that was
prepared by a certified public accountant"

SIGNED

Robert C. Carpenter

ADOPTED _____ FAILED _____ TABLED _____

H. B. No. 926

DATE 8/5/98

S. B. No. _____

Amendment No. _____
(to be filled in by
Principal Clerk)

Rep.) CDOM

Sen.) _____

moves to amend the bill on page 2, line 15

by deleting lines 15 through 25 and inserting
the following language:

"It is recommended that the
Legislative Research Commission study
the issue of ~~dis~~ insurance discrimination
as it affects public officials."

SIGNED 

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Senate Pensions - Retirement & Insurance
 Name of Committee

August 5, 1998
 Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Alan Miles	Barkley & Dixon LLP
Dascher / Lopes	NC DOI
Robert R. R.	Jordan Pinn Wille
Susan Valauri	Nationwide
David R. R.	NC SAS
Henry Jones	Attorney - Raleigh
John Bowditch	Zeb Alley P.A.
Paul Mahoney	NC ASSN of HEALTH PLANS
AMC	Moore & Van Allen
Harry Kaplan	
John D. D.	NC AHA
David Ferrell	HMC CCC PA.
Amey Jo Bain	Smith Anderson
Lucia Peel	NC Medical Society
Stephen W Keane	NC Medical Society
W. Martin A. A.	NC SA
W. A. A.	NC HA
Tim Brydon	Dept of State Treasurer
Robert PASchal	Young, Moore

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT/INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Tuesday, August 11, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

H.B.(CS)1396	Winston-Salem Firemen's Retirement
	Sequential Referral: None
	Recommended Referral: None

H.B. 1538	Sharpsburg Retirement System
	Sequential Referral: None
	Recommended Referral: None

TOTAL REPORTED: 2

Committee Clerk Comment: None

Minutes

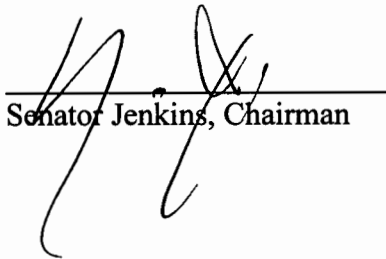
Pensions & Retirement / Insurance Committee

The committee on Pensions&Retirement/Insurance met on August 7, 1998 immediately following the Session of the General Assembly at the desk of Senator Tommy Jenkins. There were 11 members in attendance, including Senator Jenkins who presided.

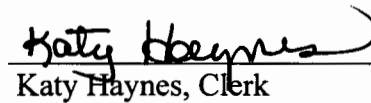
House Bill 1396 Winston-Salem Firemen's Retirement was explained by Sen. McDaniel. Senator Carpenter moved for a favorable report. The motion carried.

House Bill 1538 Sharpsburg Retirement System was explained by Senator Cooper. Senator Weinstein moved for a favorable report. The motion carried.

The meeting was adjourned.



Senator Jenkins, Chairman



Katy Haynes, Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

2

HOUSE BILL 1396
Committee Substitute Favorable 7/15/98

Short Title: Winston-Salem Firemen's Retirement.

(Local)

Sponsors:

Referred to:

May 21, 1998

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PROVISIONS OF THE WINSTON-SALEM
3 FIREMEN'S FUND ASSOCIATION.

4 The General Assembly of North Carolina enacts:

Section 1. Chapter 388 of the 1973 Session Laws, as amended by Chapter 15 of the 1977 Session Laws, Chapter 284 of the 1979 Sessions Laws, Chapter 647 of the 1981 Session Laws, Chapter 464 of the 1983 Session Laws, Chapter 508 of the 1987 Session Laws, and Chapter 793 of the 1989 Session Laws, reads as rewritten:

9 "Sec. 1. That the name of the Association herein established shall be Winston-
10 Salem Firemen's Retirement Fund Association, hereinafter referred to as the
11 Association. References to the Association as of a date prior to April 3, 1979, and
12 following July 1, 1973, shall mean the Winston-Salem Fire-Public Safety Retirement
13 Fund Association, which was the name of the Association during such period.

14 Sec. 2. Subject to the provisions of Section 16 hereof, the following persons shall
15 automatically be members of the Association:

16 (a) As of July 1, 1987, any person who was a member of the Association following
17 the close of business of the Association immediately preceding such date.

18 (b) As of July 1, 1987, and thereafter, any person not covered under (a) above
19 who shall have been regularly and continuously employed full time by the Fire
20 Department of the City of Winston-Salem (hereinafter referred to as the Fire
21 Department), including any Fire Department mechanic or electrician, who shall have
22 attained his 18th birthday and shall not have attained his 40th birthday. Any person
23 not covered under (a) above who was hired by the Fire Department prior to July 1,

1 1987, and continues to be employed by the Fire Department on such date, and who
2 had attained his 30th birthday when hired but had not then attained his 40th
3 birthday, may elect within 90 days following July 1, 1987, to become a member by
4 contributing to the Association the sum of twelve dollars (\$12.00) per month from his
5 date of hire by the Fire Department, plus interest at the rate of eight percent (8%),
6 applicable to any payments made on and after July 1, 1989, per annum, computed on
7 the amount accrued as of the end of each fiscal year of the Association.

8 (c) Notwithstanding the provisions of subsection (b) immediately preceding, as a
9 condition to any person's becoming a member of the Association pursuant to the
10 provisions of subsection 2(b) or 16(a), the Trustees may require such person to
11 undergo a physical examination by a physician or physicians of good standing or
12 repute selected by the Trustees. If it shall be found from such physician's report that
13 such person is not in good physical or mental condition as of the date he would be
14 eligible to become a member of the Association, such person shall be denied
15 membership in the Association. The determinations of whether or not such person
16 shall be required to undergo a physical examination and whether or not he is in good
17 physical or mental condition shall be made by the Trustees. In making such
18 determinations, all persons similarly situated shall be treated alike. The cost of any
19 medical examination required pursuant to the provisions of this subsection (c) shall
20 be borne by the person seeking membership in the Association.

21 Sec. 3. The Association may provide and raise funds in any legal manner to be
22 used as a pension fund for such person or persons as may be entitled thereto under
23 the provisions of this act and to such extent as is hereinafter set out.

24 Sec. 4. The governing body of the Association shall consist of a Board of Trustees
25 five in number, four from the membership of the Fire Department, and one to be
26 appointed by the Insurance Commissioner of the State of North Carolina.

27 Sec. 5. The Trustees from the membership of the Fire Department shall be elected
28 by the members of the Fire Department for four-year terms. Such terms shall be
29 staggered, so that two of the Trustees shall be elected during the month of January of
30 each year ~~evenly divisible by two. Prior to each election, each fire company may, by~~
31 ~~majority vote of the active members of the company, nominate one candidate for~~
32 ~~election as Trustee. Only members of the Association, in good standing, who have~~
33 divisible evenly by two. Trustees that are slated to leave the Board are automatically
34 candidates for reelection unless they choose not to serve another term. In addition,
35 the elected Association Trustees shall select from the members of the Fire
36 Department four members in good standing, each of whom continuously served in
37 the Fire Department for a period of at least four years shall be eligible for election as
38 Trustees. The two nominees receiving the highest number of votes cast in such
39 election shall be elected. years. A general election shall then be held by the
40 membership of the Fire Department to elect from the list of candidates two Trustees
41 to serve a four-year term. Each member of the Fire Department in good standing
42 may cast two votes for the member's choice of nominees. The nominee receiving the
43 highest number of votes in the election will be a member of the Winston-Salem
44 Firemen's Relief Fund Board as well as the Association Board. In the event that a

1 Trustee is unable to complete the Trustee's term, the nominee receiving the next
2 highest number of votes in the last election held and who is not then serving as a
3 Trustee shall complete the unexpired term of the Trustee who resigned from the
4 Board. A tie shall be resolved by casting lots. ~~In such election, each member of the~~
5 ~~Association in good standing may vote for two nominees. For purposes of this~~
6 ~~Section 5, the administrative offices of the Fire Department shall be deemed to be a~~
7 ~~fire company.~~

8 Sec. 6. Any Trustee may resign at any time by giving notice in writing to the other
9 Trustees. Should any Trustee who is a member of the Fire Department cease to be a
10 member of the Fire Department for any reason, he shall automatically cease to be a
11 Trustee. With regard to any Trustee elected by the members of the Association who
12 resigns or ceases to be a Trustee for any reason, his successor shall be elected as
13 provided in Section 5 of this act; ~~provided, that such election shall be held as soon as~~
14 ~~practicable following such resignation or cessation, each member of the Association~~
15 ~~in good standing may vote for only one nominee, the one nominee receiving the~~
16 ~~highest number of votes shall be elected, and the election shall be only for the~~
17 ~~remaining unexpired term of the predecessor Trustee.~~ act. Should the Trustee who
18 was appointed by the Insurance Commissioner of the State of North Carolina resign
19 or cease to be a Trustee for any reason, his successor shall be appointed by the said
20 Insurance Commissioner.

21 Sec. 7. The Board of Trustees is herein fully vested with the exclusive right and
22 authority to pay out the funds of this Association, as provided for in this act. All
23 matters and claims provided for under this act shall be passed upon by said Trustees
24 and all decisions and actions of said Trustees shall be binding upon the Association
25 and the members thereof. Every Trustee shall be entitled to one vote except the
26 chairman of the Board of Trustees, who shall be entitled to vote only to break a tie.
27 At every annual meeting of the Board of Trustees, the Trustees shall elect a
28 chairman, vice-chairman, secretary and treasurer. The secretary and treasurer need
29 not be Trustees, and the offices of secretary and treasurer may be combined into a
30 single office, in the discretion of the Trustees. The annual meeting of the Board of
31 Trustees shall be held as soon as is practicable following the end of each calendar
32 year at such place and at such time as shall be determined by the Trustees.

33 Sec. 8. The secretary of the Association (or the secretary-treasurer if such offices
34 shall be combined into a single office) shall be entitled to receive monthly
35 compensation in an amount not to exceed one hundred dollars (\$100.00) per month,
36 ~~as determined by the Trustees.~~ the amount of the monthly normal retirement benefit
37 payable for the month for which compensation is payable, determined pursuant to
38 Section 19 of this act. The Trustees, as such, including the chairman and the vice-
39 chairman, shall serve without compensation. The Trustees may authorize
40 reimbursement by the Association to any officer or Trustee of the Association for all
41 expenses incurred by such person in connection with services rendered in behalf of
42 the Association.

43 Sec. 9. The Trustees shall elect a custodian of all funds and property of the
44 Association, provided that such custodian shall have first offered proof satisfactory to

1 the Trustees, by bond or otherwise, that it is and will be financially responsible for all
2 property coming into its hands in a fiduciary capacity. Said custodian shall not
3 release any of the funds or property of the Association for reasons other than
4 investment of such funds or property except upon the written authorization of the
5 Trustees.

6 The Trustees shall also elect an investment manager who may or may not be the
7 same person as the custodian. Any such investment manager shall be a bank, or an
8 insurance company, or an entity registered under the Investment Advisor's Act of
9 1940. The investment manager shall be authorized to invest and reinvest the funds or
10 property of the Association in the investment manager's own judgment and
11 discretion. The investment manager shall report to the Trustees on a periodic basis,
12 but not less frequently than each calendar quarter. The investment manager
13 (including said custodian when acting as investment manager) shall not be liable to
14 the Association for any act of failure to act by it, except for gross negligence or
15 willful misconduct.

16 Sec. 10. A special meeting of the Board of Trustees may be called by the
17 chairman or vice-chairman, or by any two Trustees, upon 24 hours' written notice
18 delivered in person to the members of said Board or mailed to the last known
19 address of each member of said Board. A majority of the Trustees in office shall
20 constitute a quorum at any meeting and a majority vote of the Trustees at a meeting
21 at which a quorum is present shall constitute action by the Trustees.

22 Sec. 11. The chairman of the Board of Trustees, when present, shall preside at all
23 meetings. In the absence of the chairman, the vice-chairman shall act as chairman.

24 Sec. 12. The secretary shall keep in complete form such data as shall be necessary
25 for actuarial valuation of the funds of the Association and for checking the
26 disbursements for and on behalf of the Association. He shall keep minutes of all
27 proceedings of the Board of Trustees and of the Association, and the same shall be
28 kept in a place selected by the Trustees. The treasurer of the Association shall post
29 yearly at each fire station and at the office of ~~each police district, fire administration,~~
30 as soon as practicable following the end of each year, a financial statement of the
31 Association.

32 Sec. 13. The treasurer of the Association shall deposit with the custodian all funds
33 and property that may come into his hands for the Association. The said treasurer
34 shall obtain a receipt from the custodian for all funds and property delivered to the
35 custodian by the treasurer. Said custodian shall invest and reinvest such funds and
36 property as directed by the investment manager appointed under Section 9.
37 Notwithstanding any contrary provisions of Section 9 or of this section, the Trustees
38 are specifically authorized and empowered to invest funds of the Association by
39 depositing such funds with the Winston-Salem Firemen's Credit Union on condition
40 that the Association shall receive interest at an annual rate agreed upon by the
41 Association and such credit union.

42 Sec. 14. The custodian and the investment manager shall receive compensation for
43 services rendered as may be agreed upon from time to time in writing by the Trustees
44 and by the custodian (with respect to services rendered by the custodian) or the

1 investment manager (with respect to services rendered by the investment manager).
2 The Trustees shall have the authority to employ legal counsel when, in the opinion of
3 the Trustees, legal counsel is necessary. In case of such employment, said counsel
4 shall be paid such fees as may be fair and reasonable as agreed upon in writing by the
5 Trustees and the counsel so employed.

6 Sec. 15. On or before August 31, 1987, the Board of Trustees of the Winston-
7 Salem Firemen's Relief Fund shall transfer to the Board of Trustees of the Winston-
8 Salem Firemen's Retirement Fund Association out of properties and funds belonging
9 to the Winston-Salem Firemen's Relief Fund the sum of fifty-four thousand dollars
10 (\$54,000) in cash or assets. The assets so transferred pursuant to the immediately
11 preceding sentence shall be transferred upon the basis of the fair market value
12 thereof as of the date of transfer, and the particular assets to be transferred shall be
13 determined by joint action of the Board of Trustees of the Winston-Salem Firemen's
14 Relief Fund and the Board of Trustees of the Winston-Salem Firemen's Retirement
15 Fund Association. All property of the Association is hereby relieved from any and
16 all claims of the persons entitled to relief from the Winston-Salem Firemen's Relief
17 Fund. The North Carolina Firemen's Association, its officers, members, boards and
18 committees, are also hereby relieved of any claim of any kind whatsoever which may
19 be based on past service, present service or future service in the Winston-Salem Fire
20 Department. The Winston-Salem Firemen's Relief Fund and the officers, members,
21 boards and committees of said Fund, are also hereby relieved of any claim of any
22 kind whatsoever which may be based on past, present or future service in the
23 Winston-Salem Fire Department, if any, so long as any claimant is entitled to benefits
24 or pension under the provisions of this act.

25 Sec. 16. (a) Notwithstanding the provisions of subsection (b) immediately
26 following, if a person who shall not be a member of the Association shall be
27 transferred to the employment of the Fire Department from the employment of the
28 City of Winston-Salem (hereinafter referred to as the City), the following provisions
29 shall apply in determining whether he shall be a member of the Association following
30 such transfer:

31 (1) If he shall have attained at least his 18th birthday and shall not
32 have attained his 40th birthday on the date of such transfer, he
33 shall automatically become a member on such date of transfer. In
34 determining such transferred employee's number of years of
35 continuous employment by the City, employment with the City
36 prior to such transfer shall be taken into account only if such
37 employee shall elect to contribute to the Association the ~~amount~~
38 sum of (i) plus (ii) plus (iii), where (i) is the amount of twelve
39 dollars (\$12.00) per ~~month~~ month, measured from the date of his
40 hire by the City until ~~earlier of~~ the date of such transfer, ~~plus~~
41 ~~interest~~ transfer and June 30, 1998; (ii) is the aggregate amount
42 that the person would have contributed, determined in accordance
43 with Section 17 of this act, measured from July 1, 1998, until the
44 date of the transfer, if the transfer occurs on or after July 1, 1998;

1 and (iii) is interest accrued at the rate of eight percent (8%),
2 applicable (8%) with respect to any payments made on and after
3 July 1, 1989, per annum, computed compounded annually on the
4 amount accrued as of the end of each fiscal year of the
5 Association.

6 (2) If he shall have attained at least his 40th birthday on the date of
7 transfer, but had not attained such birthday when last employed by
8 the City, he may elect within 90 days following such transfer to
9 become a member. If he elects to become a member, he shall
10 contribute to the Association the amount he would have
11 contributed if he had become a member on the day next preceding
12 his 40th birthday. In addition, at the option of such employee, he
13 may further elect to contribute such additional amount as he
14 would have contributed prior to his 40th birthday if his
15 employment with the City had been with the Fire Department.
16 Any such contributions shall include interest at the rate of eight
17 percent (8%), applicable to any payments made on and after July
18 1, 1989, per annum, computed on the amount accrued as of the
19 end of each fiscal year of the Association.

20 (3) If he shall have attained at least his 40th birthday when last
21 employed by the City, he shall be ineligible to become a member
22 following such transfer.

23 (4) The elections specified in subdivisions (1) and (2) hereof shall be
24 made in writing to the Trustees within 90 days following such
25 transfer, and shall be irrevocable when made (subject to
26 termination of membership upon subsequent separation from
27 employment with the Fire Department). Any contributions (and
28 interest) payable pursuant to such election shall be paid in cash in
29 a lump sum at the time such election shall be filed.

30 (b) Notwithstanding the provisions of subsection (a) of Section 2 hereof, as soon
31 as practicable following April 3, 1979, (but in no event more than 60 days thereafter),
32 the Trustees gave each person who was then employed by the City of Winston-Salem
33 as a Public Safety Officer an election to be a member or not to be a member of the
34 Association. Each such election was to be made in accordance with procedures
35 established by the Trustees and was irrevocable when made (subject to termination of
36 membership upon a subsequent separation from the employment of the City, and
37 subject to the provisions of subsection (a) of this Section 16). If a Public Safety
38 Officer failed to file a timely election, he was deemed to have elected not to be a
39 member. If a Public Safety Officer who was a member on the date of the election
40 elected to discontinue membership (or shall have been deemed to have so elected),
41 within 30 days following such date there should have been refunded to him the full
42 amount of his prior contributions to the Association, if any, without interest. If a
43 Public Safety Officer who failed to make contributions prior to the election date
44 elected to be a member, he shall have within 30 days following such election paid to

1 the Association the full amount he would have contributed if he had made required
2 contributions during the entire period that he was eligible to be a member. Such
3 contributions included interest at the rate of six percent (6%) per annum, computed
4 on the amount accrued as of the end of each fiscal year of the Association.

5 (c) Any member whose employment by the Fire Department as a Public Safety
6 Officer shall be terminated on or after June 27, 1981, for any reason, including
7 transfer to another department in the employment of the City, shall be terminated
8 immediately as a member; provided, that any member who is transferred on or after
9 July 1, 1981, to another department of the City in a fire-related job shall not become
10 a terminated member if the following conditions are met: (i) within 15 days following
11 the date of such transfer he shall file with the Trustees a written election to continue
12 as a member; and (ii) such member shall be notified in writing by the secretary of the
13 Association on or before the date of transfer of his right to make the election. If a
14 terminated member shall reenter employment of the Fire Department, his eligibility
15 to become a member shall be determined at that time in accordance with Section 2
16 hereof, except to the extent such individual may be entitled to elect to become a
17 member upon a transfer of employment as provided in subsection (a) of this Section
18 16.

19 (d) In determining the number of years of continuous employment of a member,
20 there shall be taken into account all years for which he shall make contributions in
21 accordance with subsection (a) or (e) of this Section 16 or Section 19. For purposes
22 of computing a member's years of continuous employment with the City, any period
23 of unused sick leave with the Fire Department accrued by the member on the date of
24 his retirement shall be deemed to be a period of continuous employment with the
25 Fire Department.

26 (e) If any member of the Association was employed by the Fire Department as a
27 cadet, such member's number of years of employment as a cadet may be added to the
28 period of his continuous employment with the City if, by July 31, 1981, such member
29 contributed to the Association an amount equal to twelve dollars (\$12.00) per month
30 for the time he was a cadet, plus interest at the rate of six percent (6%) per annum,
31 computed on the amount accrued as of the end of each fiscal year of the Association.

32 (f) If a member has been employed by the City continuously for a period of 10
33 years and has any military service, and is not otherwise treated under Section 26 as
34 being in the employment of the City during the period of such military service, the
35 period of such military service shall nevertheless be added to his period of continuous
36 employment with the City upon such member's paying to the Association an amount
37 equal to twelve dollars (\$12.00) for each month of such military service plus interest
38 at the rate of eight percent (8%), applicable to any payments made on and after July
39 1, 1989, per annum, compounded annually. Such military service shall be limited to
40 the initial period of active duty in the armed forces of the United States up to the
41 time the member was first eligible to be separated or released therefrom, and
42 subsequent periods of such active duty as required by the armed forces of the United
43 States up to the date of first eligibility for separation or release therefrom. The
44 member must submit evidence satisfactory to the Trustees of the military service

1 claimed. Such election must be made within one year after the member first
2 becomes eligible to contribute for such military service. Credit for military service
3 under this subsection shall not be considered service creditable under another
4 retirement system for purposes of G.S. 128-26(a).

5 (g) If an individual who is an active participant in the North Carolina Local
6 Governmental Employees' Retirement System (the 'System') shall terminate service
7 with the employer enabling the individual to participate in the System (the 'System
8 Employer'), and shall immediately enter the employment of the Fire Department, he
9 may elect to have his period of service under the System considered as continuous
10 employment with the Fire Department for purposes of this act; provided, that such
11 election shall be permitted only if the individual was under age 40 when he entered
12 the employment of the System Employer. This election shall be made in writing to
13 the Trustees within 90 days of the individual's commencement of employment with
14 the Fire Department (or, with respect to an individual who becomes employed by the
15 Fire Department prior to July 1, 1989, this election shall be made on or before
16 September 30, 1989). The election, if made, shall be accompanied by a cash
17 contribution to the Association ~~of an amount~~ equal to the sum of (i) plus (ii) plus
18 (iii), where (i) is the amount of twelve dollars (\$12.00) per month during the period
19 of his service under the System, plus interest measured from the date of the person's
20 hiring by the City until the earlier of the transfer and June 30, 1998; (ii) is the
21 aggregate amount that the person would have contributed, determined in accordance
22 with Section 17 of this act, measured from July 1, 1998, until the date of the transfer,
23 if the transfer occurs on or after July 1, 1998; and (iii) is interest accrued at the rate
24 of eight percent (8%) per annum, compounded annually on the amount accrued as of
25 the end of each fiscal year of the Association. The election shall be irrevocable when
26 made. If the election is not made in a timely fashion, the right to make the election
27 is forfeited.

28 Sec. 17. The Treasurer of the City shall make a ~~monthly~~ deduction from the
29 salary of each member of the Association ~~(except for members in the employ of the~~
30 ~~Police Department) due him by the City in the amount directed in writing by the~~
31 ~~Trustees, not to exceed twelve dollars (\$12.00) per month, and the due him by the~~
32 ~~City. The amount of each such deduction shall be determined as of the first day of~~
33 each fiscal year of the City, and shall be equal to the quotient obtained by dividing (i)
34 the product, rounded to the nearest dollar, of .007 multiplied by the annual starting
35 salary of a firefighter employed by the Fire Department in effect at the beginning of
36 that fiscal year; by (ii) the number of payroll periods in that fiscal year. The amount
37 so deducted shall be turned over monthly as soon as practicable after the applicable
38 payroll period by the said Treasurer to the custodian of the Association as
39 hereinbefore provided, and the Association shall have the authority to accept
40 donations from any and all sources whatsoever.

41 Sec. 18. If at any time there shall not be sufficient assets in the retirement fund of
42 the Association to pay fully the persons entitled to benefits provided herein, such
43 persons shall be paid such benefits on a pro rata basis to the extent the assets of such
44 fund will allow, as shall be determined by the Trustees; provided, that the assets of

1 such fund determined as of the close of any fiscal year of the Association shall in no
2 event be less than ~~one million five hundred thousand dollars (\$1,500,000)~~. one
3 hundred thirty percent (130%) of the present value of current retirees determined as
4 of the close of that fiscal year. Effective on or after July 1, 1998, the Trustees shall
5 obtain a written report from the Association's actuary as of July 1 of each year evenly
6 divisible by two, or more frequently if the Trustees deem advisable, setting forth the
7 present value of the assets of the fund and the present value of current liabilities of
8 current retirees.

9 Sec. 19. Whenever any member of the Association has been employed by the City
10 continuously for a period ~~off of~~ of at least 30 years, such member may make written
11 application to the trustees for his normal retirement benefit, and whenever any
12 member of the Association has been employed by the City continuously for a period
13 of at least 25 years but not more than 30 years, such member may make written
14 application to the Trustees for his early retirement benefit; provided, however, that
15 such member must retire from the service of the City to receive such benefits. The
16 normal and early retirement benefits of such member shall be a monthly pension for
17 the remainder of his life, as provided hereinbelow. For this purpose and for the
18 purpose of Section 20 hereof, a member shall be deemed to have been employed by
19 the City continuously if such member shall have been employed continuously by any
20 combination of the Fire Department or Police Department (but only such
21 employment by the Police Department as is described in subsection 16(b) and (c)
22 hereof), and the transfer of a member from the employ of one of such organizations
23 to the employ of the other such organization shall not be deemed to be a termination
24 of employment by the City. Provided, that if a member has at least 25 years of
25 employment with the City, but such service is not continuous solely because of a
26 leave of absence lasting not more than a year and not described in Section 26, such
27 member shall be deemed to have continuous employment with the City during such
28 leave of absence; and provided further, that if a member has less than 25 years of
29 employment with the City but the sum of his years of employment with the City plus
30 any leave of absence lasting not more than one year and not described in Section 26,
31 equals or exceeds 25 years, the period of such leave shall be deemed to be continuous
32 employment with the City if such member contributes to the Association twelve
33 dollars (\$12.00) for each month he was on such leave, plus interest at the rate of eight
34 percent (8%), applicable to any payments made on and after July 1, 1989, per annum,
35 computed on the amount accrued as of the end of each fiscal year of the Association.
36 Effective beginning July 1, 1989, and ending June 30, 1990, the amount of the
37 monthly pension for each member who is entitled to receive a normal retirement
38 benefit (including members who retired prior to July 1, 1989) shall be two hundred
39 dollars (\$200.00). Effective beginning July 1, 1990, and ending June 30, 1998, the
40 amount of the monthly pension for each member who is entitled to receive a normal
41 retirement benefit, including members who retired prior to July 1, 1990, shall be two
42 hundred fifteen dollars (\$215.00). Effective on and after July 1, 1998, the amount of
43 the monthly pension for each member who is entitled to receive a normal retirement
44 benefit (including members who retired prior to that date) shall be two hundred five

dollars (\$205.00). The amount of the monthly pension for each member who is entitled to receive an early retirement benefit as of any date prior to July 1, 1998, shall be the product of (1) and (2), where (1) is the applicable percentage listed in the following table based on his years of continuous employment at his early retirement date, and (2) is the amount of the payment that he would have received as a normal retirement benefit under this section as of that date:

Years of Employment at Retirement Date	Percentage of Normal Retirement Benefit
25	85%
26	88%
27	91%
28	94%
29	97%

Effective on and after July 1, 1998, the amount of the monthly pension for each member who began receiving an early retirement benefit prior to July 1, 1998, shall be further reduced by multiplying the monthly pension amount by 0.9535.

Effective on and after July 1, 1998, the amount of the monthly pension of each member who retires on or after that date and is entitled to receive an early retirement benefit shall be the product of (1) the applicable percentage listed in the following table based on the member's years of continuous employment at the member's early retirement date, and (2) the amount of the payment that the member would have received as a normal retirement benefit under this section as of that date:

<u>Years of Employment at Retirement Date</u>	<u>Percentage of Normal Retirement Benefit</u>
<u>25</u>	<u>70%</u>
<u>26</u>	<u>76%</u>
<u>27</u>	<u>82%</u>
<u>28</u>	<u>88%</u>
<u>29</u>	<u>94%</u>

Payment shall be subject to the provisions of Section 18 of this act. Section 16(d) governs the determinations of a member's years of continuous employment.

Sec. 20. Whenever any member of the Association becomes totally and permanently unable, because of infirmity or disease affecting mind or body (whether or not induced by injury) to perform his duties for the City, which inability shall be determined by a medical examination by a physician or physicians of good standing and repute selected by the Trustees, he shall be deemed to be a disabled member. If a disabled member has been employed by the City for at least five full years prior to suffering disability, he shall be entitled to retire and receive a monthly benefit payable for the remainder of his life.

Effective beginning July 1, 1989, and ending June 30, 1989, the monthly benefit of a member who retires as a disabled member (including a member who retired as a disabled member prior to July 1, 1989) shall equal eight dollars (\$8.00) times his

1 years of service but in no event more than two hundred dollars (\$200.00) per month.
2 ~~Effective on and after July 1, 1990, beginning July 1, 1990, and ending June 30, 1998,~~
3 the monthly benefit of a member (including a member who retires as a disabled
4 member prior to this date) shall equal eight dollars and sixty cents (\$8.60) times his
5 years of service, but in no event more than two hundred fifteen dollars (\$215.00) per
6 month. Effective on and after July 1, 1998, the monthly benefit of a member who
7 retires as a disabled member, including a member who retires as a disabled member
8 prior to July 1, 1998, shall equal eight dollars and twenty cents (\$8.20) times his years
9 of service, but in no event more than two hundred five dollars (\$205.00) per month.

10 For this purpose only, years of service shall mean the number of his earned years of
11 service in the employment of the City (as determined pursuant to Section 16(d) of
12 this act). Payments shall be subject to the provisions of Section 18 of this act.

13 Notwithstanding the foregoing provisions of this Section 20, in the case of a
14 disabled member whose disability shall arise out of injuries incurred in fire safety
15 activities, such as fire fighting, fire training and fire inspection, such monthly benefit
16 shall in no event be less than forty dollars (\$40.00) per month, whether or not such
17 disabled member was employed by the City for at least five years prior to suffering
18 such disability. The determination of whether such disability arises out of injuries
19 incurred in fire safety activities shall be made by the Trustees.

20 Sec. 21. Any disabled member of the Association who retires under Section 19
21 hereof and who had not been employed by the City for a period of at least 30 years
22 prior to retirement, shall be subject to call by the Trustees for reexamination by a
23 physician of good standing and repute selected by the Trustees and, if based upon
24 such examination it is determined by the Trustees that such member is able to
25 perform active duties for the City, such member may be reinstated and receive for his
26 services the same compensation paid to other employees of the City of his rank or
27 classification. If such member, upon being called by the Trustees, shall refuse to
28 submit to an examination or shall refuse to be reinstated to active duty in the employ
29 of the City after being found to be able to perform active duty, such benefits as he is
30 then receiving under the provisions of this act shall immediately terminate and his
31 membership in this Association shall automatically terminate. But in the event that
32 such member is physically unable to resume active employment, or in the event he is
33 able and willing to resume active employment but no job with the City is open for
34 him at such time, his pension or compensation shall continue until there shall be an
35 opening for such member and he is reemployed by the City. For the purpose of this
36 Section 21, employment with the City shall mean only employment with the Fire
37 Department or Police Department (but employment with the Police Department shall
38 be included only with regard to any such member who was employed with the Police
39 Department prior to his retirement under Section 20 hereof).

40 Sec. 22. When any member of the Association shall resign or be dismissed from
41 employment by the City (which for this purpose shall include only employment with
42 the Fire Department or Police Department), he shall receive a sum of money equal to
43 all monies paid into the Association by him. Upon the death of any member of the
44 Association while in the employment of the City, a sum of money equal to all monies

1 paid into the Association by such deceased member shall be paid to the beneficiary
2 or beneficiaries designated in writing by such deceased member, or in default thereof,
3 to his estate. If, after retirement, a member of the Association shall die before having
4 received an amount equal to his contributions to the Association, there shall be paid
5 to the beneficiary or beneficiaries designated by such member, or in default thereof to
6 his estate, an amount equal to his contributions less the sum of retirement benefits
7 paid to such member. The reimbursements provided in this Section 22 shall be in
8 cash in a lump sum, unless otherwise determined by the Trustees with the consent in
9 writing of the recipient thereof less interest, if any, previously contributed to the
10 Association by the member pursuant to Section 16 or Section 19.

11 Sec. 23. No amount payable or held by the Association under this act for the
12 benefit of any member or beneficiary thereof shall be subject in any manner to
13 anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge,
14 nor shall any amount payable or held under this act for the benefit of any member or
15 beneficiary thereof be in anywise liable for his debts, contracts, liabilities,
16 engagements, or torts, nor be subject to any legal process to levy upon or attach, but
17 the provisions of this Section 22 shall not be applicable as regards any dealings with
18 or obligations to the Winston-Salem Firemen's Credit Union.

19 Sec. 24. Out of the amount paid to the Insurance Commissioner of the State of
20 North Carolina upon the amount of all premiums on fire and lightning policies
21 covering property situated in the corporate limits of the City, the Insurance
22 Commissioner of the State of North Carolina shall pay annually to the Treasurer of
23 the City ninety-five percent (95%), and the Treasurer of the City shall immediately
24 pay over the same to the treasurer of the Association, or if the treasurer of the
25 Association shall so direct, the Treasurer of the City shall pay such amount directly
26 to the custodian.

27 Sec. 25. No member of this Association or Trustee shall be personally liable in
28 any manner whatsoever to any person, association, firm or corporation by reason of
29 his connection with, or act or acts on behalf of, said Association, unless such act or
30 acts are fraudulently committed.

31 Sec. 26. If a member of the Association, or an employee of the Fire Department
32 or Police Department who is not a member of the Association due to failure to meet
33 the minimum age requirements of subsection 2(b) hereof, is granted a leave of
34 absence from employment by the City on account of accidental injury or temporary
35 illness, military service during time of active warfare, compulsory military service in
36 time of peace, or other good cause, for the purpose of this act such employee shall be
37 deemed to have remained in the employment of the City during the period of such
38 leave of absence or any extension thereof if he shall return to active service with the
39 City promptly following the end of the period of such leave of absence or extension
40 thereof. During such leave of absence or extension thereof, the Treasurer of the City
41 shall make no deductions from the salary, if any, of such member, and such member
42 shall not otherwise be required to make any contributions to the Association during
43 or with respect to such period.

1 Sec. 27. If any person entitled to benefits under this act shall be physically or
2 mentally incapable of receiving or acknowledging receipt of such benefits, the
3 Trustees, upon receipt of satisfactory evidence of such incapacity and that another
4 person or institution is maintaining such person entitled to benefits, and that no
5 guardian or committee has been appointed for him, may cause any benefits otherwise
6 payable to him to be made to such person or institution so maintaining him.

7 Sec. 28. The provisions of this act shall be administered on an equitable and
8 nondiscriminatory basis, it being the intent hereof that where the Trustees are given
9 discretionary powers, such powers shall be exercised in an equitable manner and so
10 as to prevent discrimination between persons similarly situated. All assets of the
11 Association shall be administered for the exclusive benefit of the members of the
12 Association and their beneficiaries, and as a fund to provide for such members or
13 beneficiaries the benefits provided in this act. It shall be impossible for any part of
14 the principal or income of the retirement fund of the Association to be used for or
15 diverted to purposes other than for the exclusive benefit of the members of the
16 Association or their beneficiaries as provided in this act; except that the Trustees may
17 use such assets to pay the reasonable expenses incurred in administering the said fund
18 and any debts, liabilities or obligations of said fund. The assets and income of the
19 fund shall be exempt from all taxes, including income taxes, imposed by the State of
20 North Carolina or any political subdivision thereof.

21 Sec. 29. The fiscal year of the Association shall end on June 30 of each year.

22 Sec. 30. Throughout this act, use of the masculine pronoun shall include the
23 feminine.

24 Sec. 31. If any part or section of this act shall be declared unconstitutional or
25 invalid by the Supreme Court of North Carolina or any other court of last resort of
26 competent jurisdiction it shall in no wise affect the remainder of this act, and the
27 remainder shall remain in full force and effect.

28 Sec. 32. All the laws and clauses of laws in conflict with the provisions of this act
29 are hereby repealed."

30 Section 2. None of the provisions of this act shall create an additional
31 liability for the Winston-Salem Firemen's Fund Association unless sufficient funds are
32 available to pay fully for the liability.

33 Section 3. This act becomes effective July 1, 1998.

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

1

HOUSE BILL 1538

Short Title: Sharpsburg Retirement System.

(Local)

Sponsors: Representatives Arnold; and Tolson.

Referred to: Local and Regional Government I, if favorable, Pensions and Retirement.

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE THE TOWN OF SHARPSBURG TO PARTICIPATE
IN THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM
WITHOUT PROVIDING PRIOR SERVICE CREDITS TO ITS EMPLOYEES.

The General Assembly of North Carolina enacts:

Section 1. Notwithstanding any other provision of law, if the Town of Sharpsburg becomes a member of the Local Governmental Employees' Retirement System, the town council may elect to provide no prior service credit in the Retirement System for employees employed prior to the date that the town becomes a participating employer in the Retirement System, and no prior service credit will be given for employees of the town for service provided to the town prior to its participation in the Retirement System, nor shall the town be required to pay for any prior service credits for its employees.

Section 2. This act applies only to the Town of Sharpsburg.

Section 3. This act is effective when it becomes law.

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Wednesday, September 02, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

UNFAVORABLE AS TO BILL, BUT FAVORABLE AS TO SENATE C.S. BILL

H.B.	926	Preferred Provider Contracts	
		Draft Number:	PCS2423
		Sequential Referral:	None
		Recommended Referral:	None
		Long Title Amended:	Yes

TOTAL REPORTED: 1

Committee Clerk Comment: None

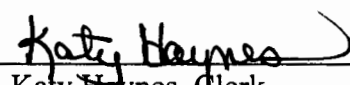
MINUTES

The Pension&Retirement/Insurance Committee met Wednesday, September 2, 1998 at 10:00. There were eleven members in attendance including Sen. Jenkins, who presided.

HB 926 Preferred Provider Contracts was brought forward by Sen. Jenkins. Sen. Weinstein sent forth an amendment which was approved. It was rolled into a committee substitute. Sen. Martin moved for an unfavorable as to the original bill, but favorable to the committee substitute.

The meeting was adjourned.



Sen. Tommy Jenkins, Chairman

Katy Haynes, Clerk

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

D

HOUSE BILL 926

Proposed Senate Committee Substitute H926-PCS2421-RN004

Short Title: Insurance Law Changes.

(Public)

Sponsors:

Referred to:

April 14, 1997

1 A BILL TO BE ENTITLED
2 AN ACT PERTAINING TO CHANGES IN THE INSURANCE LAWS AND
3 RELATED LAWS.

4 The General Assembly of North Carolina enacts:

5

6 CHARITABLE GIFT ANNUITIES

7 Section 1. (a) G.S. 58-3-5 reads as rewritten:

8 "§ 58-3-5. No insurance contracts except under Articles 1 through 64 of this Chapter.

9 (a) ~~It~~ Except as provided in subsection (b) of this section, it is unlawful for any
10 company to make any contract of insurance upon or concerning any property or
11 interest or lives in this State, or with any resident thereof, or for any person as
12 insurance agent or insurance broker to make, negotiate, solicit, or in any manner aid
13 in the transaction of such insurance, unless and except as authorized under the
14 provisions of Articles 1 through 64 of this Chapter.

15 (b) A charitable organization as described in section 501(c)(3) or section 170(c) of
16 the Internal Revenue Code or an educational institution may receive a transfer of
17 property contingent upon its agreement to pay an annuity benefit to the transferor or
18 the transferor's nominee without being subject to this Chapter if the following
19 conditions are met:

20 (1) The organization or educational institution has been in active
21 operation for at least five years.

22 (2) The annuity agreement contains the following disclosure clause:
23 'This annuity is not issued by an insurance company, is not subject

1 to regulation by the State of North Carolina, and is not protected
2 or otherwise guaranteed by any government agency or insurance
3 guaranty fund.'

4 (3) The organization or educational institution has reinsured its
5 liability under its annuity agreements with a licensed reinsurer and
6 has notified the Department of Insurance of the name of the
7 reinsurer.

8 Subdivision (3) of this subsection does not apply to an organization or educational
9 institution that was issuing annuity agreements prior to the effective date of this
10 section.

11 (c) For purposes of this section, 'educational institution' means a school, academy,
12 institute, college, university, or other entity that maintains a faculty to provide
13 instruction to students and that is principally funded on a continuing basis by
14 appropriations from the State or a political subdivision of the State or that is subject
15 to Chapters 115C, 115D, or 116 of the General Statutes."

16 (b) The Department of Insurance shall study the use of charitable gift
17 annuities by tax-exempt organizations and educational institutions and the need for
18 solvency requirements to ensure payment of the annuities. The Department shall
19 report its findings and recommendations to the General Assembly no later than
20 March 1, 1999.

21 22 **PPO CONTRACT DEEMER PROVISION**

23 Section 2. G.S. 58-50-56(b) reads as rewritten:

24 "(b) Insurers may enter into preferred provider contracts or enter into other cost
25 containment arrangements approved by the Commissioner to reduce the costs of
26 providing health care services. These contracts or arrangements may be entered into
27 with licensed health care providers of all kinds without regard to specialty of services
28 or limitation to a specific type of practice. A preferred provider contract or other cost
29 containment arrangement that is not disapproved by the Commissioner within 90
30 days of its filing by the insurer shall be deemed to be approved."

31 32 **AVIATION INSURANCE**

33 Section 3. G.S. 58-21-10(8) reads as rewritten:

34 "(8) 'Surplus lines insurance' means any insurance in this State of risks
35 resident, located, or to be performed in this State, permitted to be
36 placed through a surplus lines licensee with a nonadmitted insurer
37 eligible to accept such insurance, other than reinsurance, aviation
38 insurance, wet marine and transportation insurance, insurance
39 independently procured pursuant to G.S. 58-28-5, life and accident
40 or health insurance, and annuities."

41 42 **HMO INSOLVENCY CLAIMS PRIORITIES**

43 Section 4. G.S. 58-30-220 reads as rewritten:

44 "§ 58-30-220. Priority of distribution.

1 The priority of distribution of claims from the insurer's estate shall be in
2 accordance with the order in which each class of claims is set forth in this section.
3 Every claim in each class shall be paid in full or adequate funds shall be retained for
4 payment before the members of the next class receive any payment. No subcategories
5 shall be established within the categories in a class. The order of distribution of
6 claims shall be:

7 (1) The receiver's expenses for the administration and conservation of
8 assets of the insurer.

9 (2) Claims or portions of claims for benefits under policies and for
10 losses incurred, including claims of third parties under liability
11 policies; claims of HMO enrollees and HMO enrollees'
12 beneficiaries; claims for unearned premiums; claims for funds or
13 consideration held under funding agreements, as defined in G.S.
14 58-7-16; claims under life insurance and annuity policies, whether
15 for death proceeds, annuity proceeds, or investment values; and
16 claims of domestic and foreign guaranty associations, including
17 claims for the reasonable administrative expenses of domestic and
18 foreign guaranty associations; but excluding claims of insurance
19 pools, underwriting associations, or those arising out of reinsurance
20 agreements, claims of other insurers for subrogation, and claims of
21 insurers for payments and settlements under uninsured and
22 underinsured motorist coverages.

23 (2a) For HMOs, claims of providers and participating providers, as
24 defined in G.S. 58-67-5(h) and G.S. 58-67-5(1), who are obligated
25 by statute, agreement, or court order to hold enrollees harmless
26 from liability for services provided and covered by an HMO.

27 (3) Claims of the federal or any state or local government or taxing
28 authority, including claims for taxes.

29 (4) Compensation actually owing to employees other than officers of
30 the insurer for services rendered within three months before the
31 commencement of a delinquency proceeding against the insurer
32 under this Article, but not exceeding one thousand dollars (\$1,000)
33 for each employee. In the discretion of the Commissioner, this
34 compensation may be paid as soon as practicable after the
35 proceeding has been commenced. This priority is in lieu of any
36 other similar priority that may be authorized by law as to wages or
37 compensation of those employees.

38 (5) Claims of general creditors, including claims of insurance pools,
39 underwriting associations, or those arising out of reinsurance
40 agreements; claims of other insurers for subrogation; and claims of
41 insurers for payments and settlements under uninsured and
42 underinsured motorist coverages."

43 Section 5. G.S. 58-67-145 reads as rewritten:

1 **"§ 58-67-145. Rehabilitation, liquidation, or conservation of health maintenance**
2 **organization.**

3 Any rehabilitation, liquidation or conservation of a health maintenance
4 organization shall be deemed to be the rehabilitation, liquidation, or conservation of
5 an insurance company and shall be conducted under the supervision of the
6 Commissioner pursuant to the law governing the rehabilitation, liquidation, or
7 conservation of insurance companies, except that the provisions of Articles 48 and 62
8 of this Chapter shall not apply to health maintenance organizations. The
9 Commissioner may apply for an order directing him to rehabilitate, liquidate, or
10 conserve a health maintenance organization upon one or more grounds set out in
11 Article 30 of this Chapter or when in his opinion the continued operation of the
12 health maintenance organization would be hazardous either to the enrollees or to the
13 people of this State.

14 ~~For the purpose of determining the priority of distribution of general assets, claims~~
15 ~~of enrollees and claims of enrollees' beneficiaries have the same claims' priorities as~~
16 ~~established by G.S. 58-30-220, for policyholders and beneficiaries of other insurance~~
17 ~~companies. Any provider who is obligated by statute, agreement, or court order to~~
18 ~~hold enrollees harmless from liability for services provided and covered by an HMO~~
19 ~~has a priority of distribution next subordinate to that of policyholders under G.S.~~
20 ~~58-30-220, so that his status is after claims for unearned premiums, but before claims~~
21 ~~of general creditors. Providers who are not obligated to hold enrollees harmless shall~~
22 ~~be treated as general creditors and shall pursue claims against enrollees until final~~
23 ~~resolution of the estate of the liquidated HMO."~~

24
25 **NCIUA TECHNICAL CORRECTION**

26 Section 6. G.S. 58-45-10 reads as rewritten:

27 **"§ 58-45-10. North Carolina Insurance Underwriting Association created.**

28 There is hereby created the North Carolina Insurance Underwriting Association,
29 consisting of all insurers authorized to write and engage in writing within this State,
30 on a direct basis, essential property insurance, except town and county mutual
31 insurance associations and assessable mutual companies as authorized by G.S. 58-7-
32 75(5)b, 58-7-75(5)d, and 58-7-75(7)b and except an insurer who only writes insurance
33 in this State on property exempted from taxation by the provisions of ~~G.S. 105-296~~
34 ~~and 105-297. G.S. 105-278.1 through G.S. 105-278.8.~~ Every such insurer shall be a
35 member of the Association and shall remain a member of the Association so long as
36 the Association is in existence as a condition of its authority to continue to transact
37 the business of insurance in this State."

38
39 **CHILDREN'S HEALTH INSURANCE PORTABILITY**

40 Section 7. G.S. 58-68-30(c)(1) reads as rewritten:

41 "(1) Creditable coverage defined. -- For the purposes of this Article,
42 "creditable coverage" means, with respect to an individual,
43 coverage of the individual under any of the following:

- a. A self-funded employer group health plan under the Employee Retirement Income Security Act of 1974.
 - b. Group or individual health insurance coverage.
 - c. Part A or part B of title XVIII of the Social Security Act.
 - d. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928.
 - e. Chapter 55 of title 10, United States Code.
 - f. A medical care program of the Indian Health Service or of a tribal organization.
 - g. A State health benefits risk pool.
 - h. A health plan offered under chapter 89 of title 5, United States Code.
 - i. A public health plan (as defined in federal regulations).
 - j. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. § 2504(e)).
 - k. The Health Insurance Program for Children established in Part 8 of Chapter 108A of the General Statutes, or any successor program.
- 'Creditable coverage' does not include coverage consisting solely of coverage of excepted benefits."

CONDOMINIUM INSURANCE/INDIVIDUAL UNITS

Section 8. (a) G.S. 47C-3-113(a) reads as rewritten:

"(a) Commencing not later than the time of the first conveyance of a unit to a person other than a declarant, the association shall maintain, to the extent available:

- (1) Property insurance on the common elements ~~and units~~ insuring against all risks of direct physical loss commonly insured against including fire and extended coverage perils. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the replacement cost of the insured property at the time the insurance is purchased and at each renewal date, exclusive of land, excavations, foundations and other items normally excluded from property policies; and
- (2) Liability insurance in reasonable amounts, covering all occurrences commonly insured against death, bodily injury and property damage arising out of or in connection with the use, ownership, or maintenance of the common elements.

(b) G.S. 47C-3-113(b) reads as rewritten:

"(b) ~~The insurance maintained under subdivision (a)(1)~~ In the case of a building containing units having horizontal boundaries described in the declaration, the insurance maintained under subdivision (a)(1), to the extent reasonably available, shall include the units, but need not include improvements and betterments installed by unit owners."

(c) G.S. 47C-3-113(c) reads as rewritten:

"(c) If the insurance described in subsection (a) or (b) of this section is not reasonably available, the association promptly shall cause notice of that fact to be hand-delivered or sent prepaid by United States mail to all unit owners. The declaration may require the association to carry any other insurance, and the association in any event may carry any other insurance it deems appropriate to protect the association or the unit owners."

SMALL EMPLOYER GROUP HEALTH INSURANCE

Section 9. G.S. 58-50-110(14) reads as rewritten:

"(14) 'Late enrollee' ~~means an eligible employee or dependent who requests enrollment in a health benefit plan of a small employer after the end of the initial enrollment period provided under the terms of the health benefit plan in effect at the time the employee first became eligible;~~ has the same meaning as defined in G.S. 58-68-30(b)(2); provided that the initial enrollment period shall be a period of at least 30 consecutive calendar days. ~~However, In addition to the special enrollment provisions in G.S. 58-68-30(f),~~ an eligible employee or dependent shall not be considered a late enrollee under a small employer health benefit plan if:

- a. ~~The individual was covered under a public or private health benefit plan that provided, at the time the individual was eligible to enroll, benefits equal to or exceeding the same required level of benefits in the basic or standard health care plans adopted pursuant to G.S. 58-50-120 and either the individual:~~
 1. ~~Lost coverage under another health plan as a result of termination of employment, termination of a spouse's health plan coverage, or the death of a spouse or divorce and requests enrollment in a health benefit plan within 30 days after termination of coverage provided under another health plan; or~~
 2. ~~Stated, in writing, during the enrollment period that coverage under another employer health benefit plan was the reason for declining coverage;~~
- a. 3, 4. Repealed by Session Laws 1993, c. 529, s. 3.3.
- b. The individual elects a different health benefit plan offered through the Alliance or by the small employer during an open enrollment period;
- e. ~~An eligible employee requests enrollment within 30 days of becoming an employee of a member small employer;~~

- 1 d. A court has ordered coverage be provided for a
2 spouse or minor child under a covered employee's
3 health benefit plan and the request for enrollment for
4 a spouse is made within 30 days after issuance of the
5 court order. A minor child shall be enrolled in
6 accordance with the requirements of ~~G.S. 58-51-120;~~
7 G.S. 58-51-120; or
8 e. ~~The individual or employee enrollee makes a request~~
9 ~~for enrollment of the spouse or child within 30 days~~
10 ~~after the individual's or employee's marriage or the~~
11 ~~birth, adoption, or placement for adoption of a child."~~

12 Section 10. G.S. 58-50-130(g) reads as rewritten:

13 "(g) A small employer carrier shall make the information and documentation
14 described in subsection (e) of this section available to the Commissioner upon
15 request. Except in cases of violations of this Act, the information is proprietary and
16 trade secret information and is not subject to disclosure by the Commissioner to
17 persons outside of the Department except as agreed to by the small employer carrier
18 or as ordered by a court of competent jurisdiction. Nothing in this section affects the
19 Commissioner's authority to approve rates before their use under G.S. 58-65-60(e) or
20 G.S. 58-67-50(c)."

21 Section 11. G.S. 58-50-135(a) reads as rewritten:

22 "(a) Every small employer carrier shall elect either to become a risk-assuming
23 carrier and comply with the provisions of G.S. 58-50-140 or become a reinsuring
24 carrier and comply with the provisions of G.S. 58-50-145. The election shall be
25 binding for a five-year period except that ~~the~~ a newly licensed carrier's initial
26 election ~~shall be made within 60 days after January 1, 1992, and~~ shall be made for
27 two years. The Commissioner may, for good cause, permit a carrier to modify its
28 election during the five-year period. All carriers under common ownership or
29 control must make the same election in this State; provided, however, that the
30 Commissioner may, for good cause, permit an affiliated carrier to make a separate
31 election."

33 MEDICARE SUPPLEMENT INSURANCE

34 Section 12. G.S. 58-54-25 reads as rewritten:

35 "§ 58-54-25. Disclosure standards.

36 (a) In order to provide for full and fair disclosure in the sale of policies, no policy
37 or certificate shall be delivered in this State unless an outline of coverage is delivered
38 to the applicant at the time application is made.

39 (b) The Commissioner shall prescribe the format and content of the outline of
40 coverage required by subsection (a) of this section. For purposes of this section,
41 "format" means style, arrangement, and overall appearance, including such items as
42 the size, color, and prominence of type and arrangement of text and captions. Such
43 outline of coverage shall include:

- (1) A description of the principal benefits and coverage provided in the policy;
- (2) A statement of the exceptions, reductions, and limitations contained in the policy;
- (3) A statement of the renewal provisions, including any reservation by the insurer of a right to change premiums; and
- (4) A statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions.

(c) The Commissioner may prescribe by rule a standard form and the contents of an informational brochure for persons eligible for Medicare, which is intended to improve the buyer's ability to select the most appropriate coverage and improve the buyer's understanding of Medicare. Except in the case of direct response insurance policies, the Commissioner may require by rule that the information brochure be provided to any prospective insured eligible for Medicare concurrently with delivery of the outline of coverage. With respect to direct response insurance policies, the Commissioner may require by rule that the prescribed brochure be provided upon request to any prospective insured eligible for Medicare, but in no event later than the time of policy delivery.

(d) The Commissioner may adopt rules for captions or notice requirements, determined to be in the public interest and designed to inform prospective insureds that particular insurance coverages are not Medicare supplement coverages, for all accident and health insurance policies sold to persons eligible for Medicare, other than: Medicare supplement policies; disability income policies; basic, catastrophic, or major medical expense policies; or single premium, nonrenewable policies.

(e) The Commissioner may further adopt rules to govern the full and fair disclosure of the information in connection with the replacement of accident and health insurance policies, subscriber contracts, or certificates by persons eligible for Medicare.

(f) No insurer shall use attained age as a structure or methodology for its Medicare supplement insurance rates unless the structure or methodology is fully disclosed to the applicant at the time of application or to the insured at the time of delivery if the purchase is by mail order. All types of solicitation materials shall clearly indicate that the premiums are based on attained age, which means that those premiums will increase each year. The Commissioner shall prescribe by rule the format and content of the attained age rating disclosure notice. The notice shall include:

- (1) A statement that attained age rating means that rates increase as the insured ages or by the age group in which the insured is.
- (2) An illustration based on actual attained age that states the dollar amount of premium increase for the insured over a period of not less than 10 policy years and that displays the life expectancy of the insured at the beginning of the period.

(3) A statement that premiums for other Medicare supplement policies that are on issue age bases do not increase as the insured ages.

(4) A statement that other Medicare supplement policies that are on issue age bases should be compared to policies on attained age bases."

Section 13. Article 54 of Chapter 58 of the General Statutes is amended by adding two new sections to read:

"§ 58-54-45. By reason of disability.

In addition to any rule adopted under this Article that is directly or indirectly related to open enrollment, an insurer shall at least make standardized Medicare Supplement Plan A available to persons eligible for Medicare by reason of disability before age 65. This action shall be taken without regard to medical condition, claims experience, or health status. To be eligible, a person must submit an application during the six-month period beginning with the first month the person first enrolls in Medicare Part B.

"§ 58-54-50. Rules for compliance with federal law and regulations.

The Commissioner may adopt rules necessary to conform Medicare supplement policies and certificates to the requirements of federal law and regulations, including:

(1) Requiring refunds or credits if the policies or certificates do not meet loss ratio requirements.

(2) Establishing a uniform methodology for calculating and reporting loss ratios.

(3) Assuring public access to policies, premiums, and loss ratio information of issuers of Medicare supplement insurance.

(4) Establishing standards for Medicare Select policies and certificates."

LIFE INSURANCE ILLUSTRATIONS

Section 14. G.S. 58-60-5 reads as rewritten:

"§ 58-60-5. Scope of Article; exemptions.

(a) ~~Except as hereafter exempted,~~ otherwise provided in this Article, this Article ~~shall apply~~ applies to any solicitation, negotiation or procurement of life insurance occurring within this State. This Article ~~shall apply~~ applies to any issuer of a life insurance ~~contract~~ contract, including fraternal benefit societies.

(b) Unless otherwise specifically included, this Article ~~shall~~ does not apply to:

(1) Annuities,

(2) Credit life insurance,

(3) Group life insurance,

(4) Life insurance policies issued in connection with pension and welfare plans as defined by and ~~which~~ that are subject to the federal Employee Retirement Income Security Act of 1974 (ERISA),

(5) Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(c) The policy summary in this Article is not required for policies that are sold subject to rules adopted by the Commissioner for life insurance illustrations."

CIVIL PENALTY LAW CHANGES

Section 15. G.S. 58-2-70 reads as rewritten:

"§ 58-2-70. Civil penalties or restitution for violations; ~~summary suspension of license or certificate; administrative procedure.~~

(a) This section applies to any person who is subject to licensure or certification under ~~the provisions of Articles 1 through 64, 65 and 66, 67, 69, 70, or 71 of this Chapter.~~

(b) Whenever the Commissioner has reason to believe that any person has violated any of the provisions of ~~the statutes cited in subsection (a) of this section, this Chapter,~~ and the violation subjects the license or certification of that person to suspension or revocation, ~~or whenever the Commissioner has reason to believe that any person has violated Article 63 of this Chapter, the Commissioner may issue and serve upon that person a written statement of charges and a written notice of hearing, to be held at a time and place fixed in the notice. The date for the hearing shall not be less than 10 days after the date of service. It shall be sufficient to give such notice either by delivering it to the person charged or by sending the notice to the last known address of that person by certified mail, return receipt requested. At the time and place fixed for the hearing the person charged shall have an opportunity to answer the charges against him and present evidence on his behalf. Upon good cause shown, the Commissioner may permit any adversely affected person to intervene, appear, and be heard at the hearing by counsel or in person. The Commissioner may consolidate a hearing under this section with a hearing allowed under G.S. 58-63-25 where there is common subject matter involved and subject to procedural requirements set out in both sections being followed. the Commissioner may, after notice and opportunity for a hearing, proceed under the appropriate subsections of this section.~~

(c) ~~In any case where a hearing pursuant to subsection (b) of this section results in the findings by the Commissioner of If, under subsection (b) of this section, the Commissioner finds a violation of any of the provisions of the statutes cited in subsection (a) of this section, and the violation subjects the license or certification of that person to suspension or revocation, or findings by the Commissioner of a violation of Article 63 of this Chapter, the Commissioner may, in addition to or in lieu instead of suspending or revoking the license or certification, order the payment of a monetary penalty as provided in subsection (d) of this section or apply to petition the Superior Court of Wake County for an order directing payment of restitution as provided in subsection (e) of this section, or both. Each day during which a violation occurs shall constitute constitutes a separate offense. violation.~~

1 ~~Upon a finding by the Commissioner of a violation as specified in~~ If the
2 ~~Commissioner orders the payment of a monetary penalty pursuant to subsection (c)~~
3 of this section, the ~~Commissioner shall direct the payment of a penalty of not shall~~
4 ~~not be~~ less than one hundred dollars (\$100.00) nor more than one thousand dollars
5 (\$1,000). In determining the amount of the penalty, the Commissioner shall consider
6 the degree and extent of harm caused by the violation, the amount of money that
7 inured to the benefit of the violator as a result of the violation, whether the violation
8 was committed willfully, and the prior record of the violator in complying or failing
9 to comply with laws, rules, or orders applicable to the violator. The penalty shall be
10 payable to the Commissioner, who shall then forward the clear proceeds of which to
11 the State Treasurer for deposit in the General Fund of the State. Payment of the
12 civil penalty under this section shall be in addition to payment of any other penalty
13 for a violation of the criminal laws of this State.

14 (e) ~~Upon application petition of the Commissioner and a finding by the court of a~~
15 ~~violation as specified in subsection (c) of this section,~~ the court may order the person
16 who committed ~~the~~ a violation specified in subsection (c) of this section to make
17 restitution in an amount that would make whole any person harmed by the violation.
18 The petition may be made at any time and also in any appeal of the Commissioner's
19 order.

20 (f) Restitution to any State agency for extraordinary administrative expenses
21 incurred in the investigation and hearing of the violation may also be ordered by the
22 court in such amount that would reimburse the agency for the expenses.

23 (g) Nothing in this section ~~shall prevent~~ prevents the Commissioner from
24 negotiating a mutually acceptable agreement with any person as to the status of the
25 person's license or certificate or as to any civil penalty or restitution.

26 (h) ~~Notwithstanding subsection (b) of this section, if the Commissioner finds that~~
27 ~~the public health, safety, or welfare requires emergency action and incorporates this~~
28 ~~finding in his order, summary suspension of a license or certificate may be ordered~~
29 ~~effective on the date specified in the order or on service of the certified copy of the~~
30 ~~order at the last known address of the licensee, whichever is later, and effective~~
31 ~~during the proceedings to suspend, revoke, or refuse renewal provided for in~~
32 ~~subsection (b) of this section. The proceedings shall be promptly commenced and~~
33 ~~determined.~~ Unless otherwise specifically provided for, all administrative proceedings
34 under this Chapter are governed by Chapter 150B of the General Statutes. Appeals
35 of the Commissioner's orders under this section shall be governed by G.S. 58-2-75."
36

37 NOTICES FROM INDIVIDUAL LICENSEES

38 Section 16. Article 2 of Chapter 58 of the General Statutes is amended by
39 adding a new section to read:

40 "§ 58-2-69. Notification of criminal convictions and changes of address; service of
41 notice.

42 (a) As used in this section:

43 (1) 'License' includes any license, certificate, registration, or permit
44 issued under this Chapter.

- (1) For any cause sufficient to deny, suspend, or revoke the license under any other provision of this Article.
- (2) ~~Violation of any laws of this State relating to bail~~ A conviction of any misdemeanor committed in the course of dealings under the license issued by the Commissioner.
- (3) Material misstatement, misrepresentation or fraud in obtaining the license.
- (4) Misappropriation, conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.
- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) ~~Conviction of a felony regardless of the time the conviction occurred and regardless of whether the conviction resulted from conduct in or related to the bail bond business.~~ crime involving moral turpitude.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or who has been in any manner disqualified under the bail bond laws of this State or any other state, whereby the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.

1 (15) Any cause for which issuance of the license could have been
2 refused had it then existed and been known to the Commissioner
3 at the time of issuance.

4 ~~(b) The Commissioner, in lieu of revoking or suspending a license in accordance~~
5 ~~with the provisions of this Article, may, in any one proceeding, by order, require the~~
6 ~~licensee to pay to the school fund in the licensee's county of residence a civil penalty~~
7 ~~of two hundred fifty dollars (\$250.00) for each offense. Upon the licensee's failure to~~
8 ~~pay the penalty within 20 days after the order is mailed, postage prepaid, registered~~
9 ~~and addressed to the licensee's last known place of business, unless the order is~~
10 ~~stayed by an order of the court of competent jurisdiction or unless the Commissioner~~
11 ~~has already suspended or revoked the license of the licensee, the Commissioner may~~
12 ~~revoke the license or may suspend the license for any period.~~

13 (b) The Commissioner shall deny, revoke, or refuse to renew any license under
14 this Article if the applicant or licensee is or has ever been convicted of a felony."

15 Section 25. G.S. 58-71-71(a) reads as rewritten:

16 "(a) In order to be eligible to take the examination required to be licensed as a
17 runner or bail bondsman under G.S. 58-71-70, each person shall complete at least 20
18 12 hours of education in subjects pertinent to the duties and responsibilities of a
19 runner or bail bondsman, including all laws and regulations related to being a runner
20 or bail bondsman."

21 Section 26. G.S. 58-71-71(b) reads as rewritten:

22 "(b) Each year every licensee shall complete at least ~~40~~ six hours of continuing
23 education in subjects related to the duties and responsibilities of a runner or bail
24 bondsman before renewal of the license. This continuing education shall not include
25 a written or oral examination. A person who receives his first license on or after
26 January 1 of any year does not have to comply with this subsection until the period
27 between his first and second license renewals."

28 Section 27. G.S. 58-71-165 reads as rewritten:

29 **"§ 58-71-165. Monthly report required.**

30 Each professional bail bondsman and surety bondsman shall file with the
31 Commissioner ~~of Insurance~~ a written report in form prescribed by the Commissioner
32 regarding all bail bonds on which the bondsman is liable as of the first day of each
33 month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the
34 principal sum of the bond, (iv) the State or local official to whom given, and (v) the
35 fee charged for the bonding service in each instance. The report shall be filed on or
36 before the fifteenth day of each month. ~~Within the same time, a copy of this written~~
37 ~~report must also be filed with the clerk of superior court in any county in which the~~
38 ~~bondsman is obligated on bail bonds.~~ Any person who knowingly and willfully
39 falsifies a report required by this section is guilty of a Class I felony."

40 Section 28. G.S. 58-71-71(e) reads as rewritten:

41 ~~"(e) Any person who falsely represents to the Commissioner that the requirements~~
42 ~~of this section have been met is subject, after notice and opportunity for hearing, to~~
43 G.S. 58-2-70. The license of any person who fails to comply with the continuing
44 education requirements under this section shall lapse. The Commissioner may, for

1 good cause shown, grant extensions of time to licensees to comply with these
2 requirements. Any licensee who, after obtaining an extension under this subsection,
3 offers evidence satisfactory to the Commissioner that the licensee has satisfactorily
4 completed the required continuing professional education courses is in compliance
5 with this section."

6 Section 29. G.S. 58-71-85(a) reads as rewritten:

7 "(a) The suspension or revocation of, or refusal to renew, any license under G.S.
8 58-71-80 shall be in accordance with the provisions of ~~Article 3A~~ of Chapter 150B of
9 the General Statutes."

10 Section 30. G.S. 58-71-20 reads as rewritten:

11 **"§ 58-71-20. Surrender of defendant by surety; when premium need not be returned.**

12 At any time before there has been a breach of the undertaking in any type of bail
13 or fine and cash bond the surety may surrender the defendant to the official to whose
14 custody the defendant was committed at the time bail was taken, or to the official
15 into whose custody the defendant would have been given had he been committed; in
16 such case the full premium shall be ~~returned~~ returned within 72 hours after the
17 surrender. The defendant may be surrendered without the return of premium for the
18 bond if ~~he has been guilty of nonpayment of premium, changing address without~~
19 ~~notifying his bondsman, concealing himself, leaving the jurisdiction of the court~~
20 ~~without the permission of his bondsman or violating his obligation to the court. the~~
21 defendant does any of the following:

- 22 (1) Willfully fails to pay the premium to the surety or willfully fails to
23 make a premium payment under the agreement specified in G.S.
24 58-71-167.
- 25 (2) Changes his or her address without notifying the surety before the
26 address change.
- 27 (3) Physically hides from the surety.
- 28 (4) Leaves the State without the permission of the surety.
- 29 (5) Violates any order of the court."

30 Section 31. G.S. 58-71-95(5) reads as rewritten:

31 "(5) Accept anything of value from a principal or from anyone on
32 behalf of a principal except the premium, which shall not exceed
33 fifteen percent (15%) of the face amount of the bond; provided
34 that the bondsman shall be permitted to accept collateral security
35 or other indemnity from a principal or from anyone on behalf of a
36 principal. Such collateral security or other indemnity required by
37 the bondsman must be reasonable in relation to the amount of the
38 bond and shall be returned ~~upon~~ within 72 hours after final
39 termination of liability on the bond."

41 VIATICAL SETTLEMENT PROVIDERS

42 Section 32. G.S. 58-58-42(j) reads as rewritten:

43 "(j) Authority to Adopt Standards. -- The Commissioner may:

- 44 (1) Adopt rules to implement this section.

- (2) Establish standards for evaluating reasonableness of payments under contracts. This authority includes regulation of discount rates used to determine the amount paid in exchange for assignment, transfer, sale, devise, or bequest of a benefit under a policy.
- (3) Establish appropriate registration and other regulatory requirements for brokers.
- ~~(4) Require a bond."~~

HOME INSPECTORS

Section 33. G.S. 143-151.45 reads as rewritten:

"§ 143-151.45. Definitions.

The following definitions apply in this Article:

- (1) Associate home inspector. -- An individual who is affiliated with or employed by a licensed home inspector to conduct a home inspection of a residential building on behalf of the licensed home inspector.
- (2) Board. -- The North Carolina Home Inspector Licensure Board.
- (3) Compensation. -- A fee or anything else of value.
- (4) Home inspection. -- A written evaluation of ~~one~~ two or more of the following components of a residential building: heating system, cooling system, plumbing system, electrical system, structural components, foundation, roof, masonry structure, exterior and interior components, or any other related residential housing component.
- (5) Home inspector. -- An individual who engages in the business of performing home inspections for compensation.
- (6) Residential building. -- A structure intended to be, or that is in fact, used as a residence by one or more individuals."

Section 34. G.S. 143-151.52 reads as rewritten:

"§ 143-151.52. Requirements to be licensed as an associate home inspector.

To be licensed as an associate home inspector, a person must do all of the following:

- (1) Submit a completed application to the Board upon a form provided by the Board.
- (2) Pass a licensing examination prescribed by the Board.
- (3) Pay the applicable fees.
- (4) Have a high school diploma or its equivalent.
- (5) Be employed by or affiliated with or intend to be employed by or affiliated with a licensed home inspector and submit a sworn statement by ~~the~~ that licensed home inspector ~~with whom the applicant is or intends to be affiliated~~ certifying that the licensed home inspector will actively supervise and train the applicant."

Section 35. G.S. 143-151.53 reads as rewritten:

1 **"§ 143-151.53. Notification of to applicant following evaluation of application.**

2 ~~The Board must review each application for a license submitted to it and must~~
3 ~~notify each applicant that the application is either accepted or rejected. The Board~~
4 ~~must send the notification of acceptance or rejection within 30 days of receiving the~~
5 ~~application. If the Board rejects an application, the notice sent to the applicant must~~
6 ~~state the reasons for the rejection. If the Board finds that the applicant has not met~~
7 fully the requirements for licensing, the Board shall refuse to issue the license and
8 shall notify in writing the applicant of the denial, stating the grounds of the denial.
9 The application may also be denied for any reason for which a license may be
10 suspended or revoked or not renewed under G.S. 143-151.56. Within 30 days after
11 service of the notification, the applicant may make a written demand upon the Board
12 for a review to determine the reasonableness of the Board's action. The review shall
13 be completed without undue delay, and the applicant shall be notified promptly in
14 writing as to the outcome of the review. Within 30 days after service of the
15 notification as to the outcome, the applicant may make a written demand upon the
16 Board for a hearing under Article 3A of Chapter 150B of the General Statutes if the
17 applicant disagrees with the outcome."

18 Section 36. G.S. 143-151.56 reads as rewritten:

19 **"§ 143-151.56. Suspension, revocation, and refusal to renew license.**

20 (a) The Board may deny or refuse to issue or renew a license, may suspend or
21 revoke a license, or may impose probationary conditions on a license if the license
22 holder or applicant for licensure has engaged in any of the following conduct:

- 23 (1) Employed fraud, deceit, or misrepresentation in obtaining or
24 attempting to obtain or renew a license.
- 25 (2) Committed an act of malpractice, gross negligence, or
26 incompetence in the practice of home inspections.
- 27 (3) Without having a current license, either performed home
28 inspections for compensation or claimed to be licensed.
- 29 (4) Engaged in conduct that could result in harm or injury to the
30 public.
- 31 (5) Been convicted of or pled guilty or nolo contendere to any ~~crime~~
32 misdemeanor involving moral ~~turpitude~~ turpitude or to any felony.
- 33 (6) Been adjudicated ~~insane or incompetent and has not presented~~
34 proof of recovery from the condition incompetent.
- 35 (7) Engaged in any act or practice that violates any of the provisions of
36 this Article or any rule issued by the Board, or aided, abetted, or
37 assisted any person in a ~~violation~~ violation of any of the provisions
38 of this Article.

39 (b) A denial of licensure, refusal to renew, suspension, revocation, or imposition
40 of probationary conditions upon a license holder may be ordered by the Board after a
41 hearing held in accordance with Article 3A of Chapter 150B of the General Statutes
42 and rules adopted by the Board. An application may be made to the Board for
43 reinstatement of a revoked license if the revocation has been in effect for at least one
44 year."

1
2 **MANUFACTURED HOME DEALERS**

3 Section 37. Article 9A of Chapter 143 of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 143-143.21B. Dealer cancellation; deposit refund.**

6 A dealer shall refund to a buyer the full amount of a deposit on the purchase of a
7 manufactured home if the buyer has fulfilled his obligations under the purchase
8 agreement and the dealer cancels the purchase at any time."
9

10 **EFFECT OF HEADINGS**

11 Section 38. The headings to the parts of this act are a convenience to the
12 reader and are for reference only. The headings do not expand, limit, or define the
13 text of this act.
14

15 **EFFECTIVE DATES**

16 Section 39. This section and Sections 1, 2, 3, 4, 5, 6, 7, 10, 11, 14, 15, 17,
17 18, 22, 27, 29, 32, 33, and 34 of this act are effective when they become law; provided
18 that the disclosure requirement in G.S. 58-3-5, as enacted in Section 1 of this act,
19 applies only to annuity agreements issued on or after October 1, 1998. Section 19 of
20 this act becomes effective September 1, 1998. Sections 9, 12, 13, 20, 21, 23, 24, 25,
21 28, 30, 31, 35, 36, and 37 of this act become effective October 1, 1998. Sections 8, 16,
22 and 26 of this act become effective January 1, 1999.

NORTH CAROLINA GENERAL ASSEMBLY AMENDMENT

(Please type or use ballpoint pen)

EDITION No. _____

H. B. No. _____

DATE _____

S. B. No. _____

Amendment No. _____

(to be filled in by
Principal Clerk)

COMMITTEE SUBSTITUTE _____

Rep.) _____

Sen.) _____

Lana H. Weinsten

1 moves to amend the bill on page 2, line 8-10

2 () WHICH CHANGES THE ~~three~~ ^{first}

3 by rewriting that line to read:

4 "Subdivisions (1) and (3) of this subsection do
5 not apply to an organization or educational
6 institution that was issuing annuity agreements
7 prior to the effective date of this section or
8 to an organization formed solely to support an
9 educational institution in active operation
10 at least five years prior to the effective date
11 of this section."

12 _____

13 _____

14 _____

15 _____

16 _____

17 _____

18 _____

19 _____

SIGNED _____

ADOPTED _____ FAILED _____ TABLED _____

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

Robert P. Schaf
WR HaleYoung, Moore & Henderson
NC DOI

Clifford B. Tuttle

WDC GA -

Helen Williams

NACU

Katherine Joyce

SEANC

John Bowditch

Zeb Alley PA

Bill Wilson

NCAE

Richard F. Chis

NCALU

Stens Keene

NC med Society

HUGH TILSON

NCHA

Alvin Gregory

Pomere Spruill

Leon M. Killian

Wm. Van Allen

Andy B.

WCSR

Roshyn Sawitt

lobbyist

Marie Smith

NC PA

Dyke myn

GR

Steve Woodson

NC Farm Bureau

Standa McKenney

NC DOI

Bill Hale

NC DOI

Dorothy P. Pinner

NC DOI

K. E. Miller

Miller Co

VISITOR REGISTRATION SHEET

Name of Committee

Date

VISITORS: Please sign below and return to Committee Clerk.

NAME

FIRM OR STATE AGENCY AND ADDRESS

John H. Kelly

W.C.P.C.

PENSIONS & RETIREMENT/INSURANCE COMMITTEE

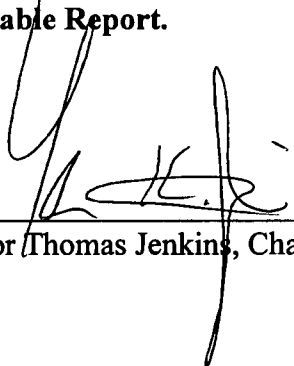
WEDNESDAY, OCTOBER 14, 1998


MINUTES

The Senate Pensions & Retirement/Insurance Committee met on Wednesday, October 14, 1998 at 3:34 p.m. in the Senate Chamber. Eight members were present, including Senator Thomas Jenkins, who presided.

Action was taken on the following bill:

HB 1362, Military Service Credit, was explained by Senator Jenkins. Senator McDaniel moved a favorable report of the bill. The motion carried unanimously.
Favorable Report.



Senator Thomas Jenkins, Chair

Cornelia McMillan, Clerk

**NORTH CAROLINA GENERAL ASSEMBLY
SENATE**

PENSIONS & RETIREMENT/ INSURANCE COMMITTEE REPORT
Senator Tommy Jenkins, Chairman

Thursday, October 15, 1998

SENATOR TOMMY JENKINS,
submits the following with recommendations as to passage:

FAVORABLE

H.B. 1362	Military Service Credit.	
	Sequential Referral:	None
	Recommended Referral:	None

TOTAL REPORTED: 1

Committee Clerk Comment: None

PENSIONS & RETIREMENT/INSURANCE COMMITTEE

WEDNESDAY, OCTOBER 14, 1998

SENATE CHAMBER

HB 1362

Military Service Credit

Representative Preston

Adjournment

1 Section 3. This act is effective when it becomes law and applies to
2 persons retiring on or after that date.



**North Carolina General Assembly
Legislative Services Office**

George R. Hall, Legislative Services Officer
(919) 733-7044

Elmer W. Robinson, Director
Administrative Division
Room 5, Legislative Building
16 W. Jones Street
Raleigh, NC 27603-5925
(919) 733-7500

Gerry F. Cohen, Director
Bill Drafting Division
Suite 401, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6660

Thomas L. Covington, Director
Fiscal Research Division
Suite 619, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-4910

Donald W. Fulford, Director
Information Systems Division
Suite 400, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-6834

Terrence D. Sullivan, Director
Research Division
Suite 545, LOB
300 N. Salisbury St.
Raleigh, NC 27603-5925
(919) 733-2578

June 5, 1998

MEMORANDUM

TO: Representative Jean Preston

FROM: Stanley Moore *SM*
Fiscal Research Division

SUBJECT: Actuarial Note House Bill 1362

Re: Allows transferred service to be included in determining whether a member of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System can purchase military service.

In accordance with North Carolina General Statute 120-114 and applicable Rules of the North Carolina Senate and House of Representatives, attached is a certified copy of an original actuarial note on the above subject as prepared by the General Assembly's Consulting Actuary. A certified copy of an original actuarial note on the same subject from the Plan Administrator's Consulting Actuary is also attached for your review.

cc: Chairman, House Committee on Pensions & Retirement
House Principal Clerk

Attachment(s):

- (1) Legislative Actuarial Note
- (2) Actuarial Note, Buck Consultants, June 5, 1998
- (3) Actuarial Note, Hartman & Associates, June 4, 1998

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE ACTUARIAL NOTE

BILL NUMBER: House Bill 1362

SHORT TITLE: Military Service Credit

SPONSOR(S): Representative Preston

SYSTEM AFFECTED: Teachers' and State Employees' Retirement System and Local Governmental Employees' Retirement System

BILL SUMMARY: : Allows transferred service to be included in determining whether a member of the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System can purchase military service.

EFFECTIVE DATE: When it becomes law.

ESTIMATED IMPACT

Retirement System Actuary: Buck Consultants estimates that there should be no cost to the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System.

General Assembly Actuary: Hartman & Associates estimates that there should be no cost to the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System.

ASSUMPTIONS AND METHODOLOGY: Teacher's & State Employees' Retirement System The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 1996 actuarial valuation of the fund. The data included 263,920 active members with an annual payroll of \$6.845 billion and 88,605 retired members in receipt of annual pensions totaling \$1.096 billion. Significant actuarial assumptions used include (a) an investment return rate of 7.5%, (b) salary increase rate of 6.25%, (c) the George B. Buck Mortality Tables for deaths in service and after retirement and (d) rates of separation from active service based on System experience. The actuarial cost method used was the entry age normal method with open-end unfunded accrued liability and an frozen unfunded liquidation period of nine years. Detailed information concerning these assumptions and methods is shown in the actuary's report which is available upon request from Stanley Moore.

Local Governmental Employees' Retirement System: The cost estimates of the System's Actuary are based on the employee data, actuarial assumptions and actuarial methods used to prepare the December 31, 1996 actuarial valuation of the fund. The data included 104,454 active members with an annual payroll of \$2.594 billion and 24,028 retired members in receipt of annual pensions totaling \$227.7 million. Significant actuarial assumptions used include (a) an investment return rate of 7.5%, (b) salary increase rate of 6.25%, (c) the 1979 George B. Buck Mortality Tables for deaths in service and after retirement and (d) rates of separation from active service based on System experience. The actuarial cost method used was the projected benefit method with aggregate level normal cost and frozen accrued liability. Detailed information concerning these assumptions and methods is shown in the actuary's report which is available upon request from Stanley Moore.

**BUCK
CONSULTANTS**

200 Galleria Parkway, N.W. Suite 1200
Atlanta, Georgia 30339-5945

June 4, 1998

Mr. Mr. Jack Pruitt
Deputy Treasurer and Director
Retirement Systems Division
Department of State Treasurer
325 North Salisbury Street
Raleigh, North Carolina 27603-1585

Re: **House Bill 1362**

Dear Mr. Pruitt:

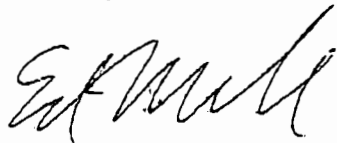
We have received your letter of May 27 regarding House Bill 1362 which affects the Teachers' and State Employees' Retirement System.

This legislation causes the military purchase provisions of G.S. 128-26(jl) and 135-4(f)(7) to comport with the withdrawn account purchase provisions of G.S. 128-26(i) and 135-4(k), and the out-of-state purchase provisions of G.S. 128-26(j2) and 135-4(11).

Inasmuch as this re-establishes a long-standing practice of the Retirement Systems Division, no additional liability would accrue against the Retirement System.

If we can be of further assistance with regard to this legislation, please do not hesitate to contact us.

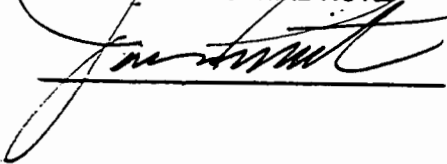
Sincerely,



Edward A. Macdonald
Principal and Consulting Actuary

EAM:mt
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JC 387 BC A33

THIS IS TO CERTIFY THAT THIS IS A
TRUE AND EXACT COPY OF AN
ORIGINAL ACTUARIAL NOTE.



HARTMAN & ASSOCIATES, LLC

ACTUARIAL CONSULTING

MARK V. HARTMAN, FSA, MAAA, MCA, EA

Phone: (336) 731-4038
Fax: (336) 731-2583

668 Link Road
Lexington, NC 27295

May 26, 1998

Mr. Stanley Moore
Fiscal Research Division
North Carolina General Assembly
300 N. Salisbury Street
Raleigh, NC 27603-5925

Re: House Bill 1362: An Act to Provide that Transferred Service Credits May Be Included in Determining Whether a Member of the TSERS or LGERS May Purchase Military Service

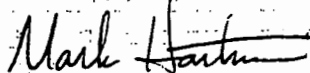
Dear Mr. Moore:

This bill amends G.S. 128-26(j1) and G.S. 135-4(f)(7) regarding purchase of creditable service for service in the Armed Forces of the United States. These amendments allow members of the Teachers' and State Employees' Retirement System and the Local Governmental Employees' Retirement System to include transferred service credits in determining eligibility to purchase military service credit.

To purchase this service, the member must make a lump-sum payment into the Annuity Savings Fund for the system of which the employee is currently a member. The inclusion of transferred service credits may allow additional members to purchase military service credits or other members to purchase credits sooner than otherwise available. The cost for purchasing this service will be the full actuarial cost of providing credit for such service, based on the assumptions used in the actuarial valuation of the retirement system liabilities, plus an administrative fee determined by the Board of Trustees. Based on this methodology, there should be no additional cost to either the Teachers' and State Employees' Retirement System or the Local Governmental Employees' Retirement System.

If you have any questions, please let me know.

Sincerely,



Mark V. Hartman, FSA, MAAA, MCA, EA
Consulting Actuary

MVH/jj

ACTUARIAL NOTE
True & Exact Copy of Original
Certified By: Stanley Moore Date: 6-5-98
Legislative Fiscal Research