

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE DRH60218-LL-114* (3/9)

Short Title: Fire and Rescue Workers' Retirement.

(Public)

Sponsors: Representative Culpepper.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENHANCE THE BENEFITS FOR CAREER FIREFIGHTERS AND
CAREER RESCUE SQUAD WORKERS WHO ARE MEMBERS OF THE
LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12E of Chapter 143 of the General Statutes reads as
rewritten:

"Article 12E.

"Retirement Benefits for Local Governmental Law-Enforcement ~~Officers~~ Officers and
Career Firefighters and Rescue Squad Workers.

**"§ 143-166.50. Retirement benefits for local governmental law-enforcement
~~officers~~ officers and career firefighters and rescue squad workers.**

(a) Definitions. – The following words and phrases as used in this Article, unless
a different meaning is plainly required by the context, have the following meaning:

(1) "Beneficiary" means any person in receipt of a retirement allowance or
other benefit from a Retirement System.

(1a) "Career firefighter" means a person (i) who is a full-time paid
employee of an employer that participates in the Local Governmental
Employees' Retirement System and maintains a fire department
certified by the North Carolina Department of Insurance, and (ii) who
is actively serving in a position with assigned primary duties and
responsibilities for the prevention, detection, and suppression of fire.

(1b) "Career rescue squad worker" means a person (i) who is a full-time
paid employee of an employer that participates in the Local
Governmental Employees' Retirement System and maintains a rescue
squad or emergency medical services team certified by the North
Carolina Department of Insurance or the Department of Health and

1 Human Services, and (ii) who is actively serving in a position with
2 assigned primary duties and responsibilities for the alleviation of
3 human suffering and assistance to persons who are in difficulty, who
4 are injured, or who become suddenly ill, by providing proper and
5 efficient care or emergency medical services.

6 (2) "Employer" means a county, city, town or other political subdivision
7 of the State.

8 (3) "Law-enforcement officer" means a full-time paid employee of an
9 employer, who possesses the power of arrest, who has taken the law
10 enforcement oath administered under the authority of the State as
11 prescribed by G.S. 11-11, and who is certified as a law enforcement
12 officer under the provisions of Chapter 17C of the General Statutes or
13 certified as a deputy sheriff under the provisions of Chapter 17E of the
14 General Statutes. "Law enforcement officer" also means the sheriff of
15 the county. The number of paid personnel employed as law
16 enforcement officers by a law enforcement agency may not exceed the
17 number of law enforcement positions approved by the applicable local
18 governing board.

19 (4) "Law-Enforcement Officers' Retirement System" means the system
20 provided for under Article 12 of Chapter 143 of the General Statutes,
21 as it existed prior to January 1, 1986.

22 (5) "Local Governmental Employees' Retirement System" means the
23 Local Governmental Employees' Retirement System of North Carolina
24 provided for under Article 3 of Chapter 128 of the General Statutes.

25 (6) "Member" means an ~~officer~~officer, firefighter, or rescue squad worker
26 included in the membership of a retirement system, including former
27 officers~~officers, firefighters, or rescue squad workers~~ no longer
28 employed who also elected to leave their accumulated contributions on
29 deposit with a Retirement System.

30 (7) "Officer" means a "law-enforcement officer."

31 (8) "State" means the State of North Carolina.

32 (b) Basic Retirement System. – On and after January 1, 1986, law-enforcement
33 officers employed by an employer shall be members of the Local Government
34 Employees' Retirement System, and beneficiaries who were last employed as officers
35 by an employer, or who are surviving beneficiaries of officers last employed by an
36 employer, are beneficiaries of the Local Governmental Employees' Retirement System
37 and paid in benefit amounts then in effect. All members of the Law-Enforcement
38 Officers' Retirement System last employed and paid by an employer are members of the
39 Local Retirement System.

40 (c) Rights. – Notwithstanding any other provisions of law, any accrued or
41 inchoate rights of a member of the Law-Enforcement Officers' Retirement System as of
42 his transfer to the Local Governmental Employees' Retirement System on January 1,
43 1986, including the rights to a vested deferred retirement allowance and to commence
44 retirement at certain ages with required years of service as a law-enforcement officer,

1 may in no way be diminished; provided, however, in no event may a member
2 commence retirement and continue membership service with the same Retirement
3 System after January 1, 1986.

4 (d) Court Cost Receipts. – Of the sum derived from the cost of court provided for
5 in G.S. 7A-304(a)(3), the amount designated for this Article, except for the amount
6 designated for the provisions of G.S. 143-166.50(e), shall be paid over to the pension
7 accumulation fund of the Local Governmental Employees' Retirement System and shall
8 offset, to the extent of these receipts, the employers' normal contribution rate required in
9 G.S. 128-30(d)(2) as it pertains to law enforcement officers.

10 (e) Supplemental Retirement Income Plan for Local Governmental
11 Law-Enforcement Officers. – As of January 1, 1986, all law-enforcement officers
12 employed by a local government employer, are participating members of the
13 Supplemental Retirement Income Plan as provided by Article 5 of Chapter 135 of the
14 General Statutes. In addition to the contributions transferred from the Law-Enforcement
15 Officers' Retirement System, participants may make voluntary contributions to the
16 Supplemental Retirement Income Plan to be credited to the designated individual
17 accounts of participants; provided, in no instance shall the total contributions by a
18 participant exceed ten percent (10%) of a participant's compensation within any
19 calendar year. From July 1, 1987, until July 1, 1988, local government employers of law
20 enforcement officers shall contribute an amount equal to at least two percent (2%) of
21 participating local officers' monthly compensation to the Supplemental Retirement
22 Income Plan to be credited to the designated individual accounts of participating local
23 officers; and on and after July 1, 1988, local government employers of law enforcement
24 officers shall contribute an amount equal to five percent (5%) of participating local
25 officers' monthly compensation to the Supplemental Retirement Income Plan to be
26 credited to the designated individual accounts of participating local officers.

27 Additional contributions shall also be made to the individual accounts of all
28 participants in the Plan, except for Sheriffs, on a per capita equal-share basis from the
29 sum of one dollar and twenty-five cents (\$1.25) for each cost of court collected under
30 G.S. 7A-304.

31 (e1) Rights of Participants under the Uniformed Services Employment and
32 Reemployment Rights Act. – A participant whose employment is interrupted by reason
33 of service in the Uniformed Services, as that term is defined in section 4303(16) of the
34 Uniformed Services Employment and Reemployment Rights Act, Public Law 103-353,
35 hereafter referred to as "USERRA", shall be entitled to all rights and benefits that the
36 participant would have been entitled to under this section had the participant's
37 employment not been interrupted, provided that the participant returns to service as a
38 law enforcement officer while the participant's reemployment rights are protected under
39 the provisions of USERRA

40 (f) Supplemental Retirement Income Plan for Full-Time Local Career
41 Firefighters and Rescue Squad Workers. – As of January 1, 2006, all career firefighters
42 and career rescue squad workers employed by a local government employer are
43 participating members of the Supplemental Retirement Income Plan as provided by
44 Article 5 of Chapter 135 of the General Statutes. Participants may make voluntary

1 contributions to the Supplemental Retirement Income Plan to be credited to the
2 designated individual accounts of participants; however, in no instance shall the total
3 contributions by a participant exceed ten percent (10%) of a participant's compensation
4 within any calendar year. On and after January 1, 2006, local government employers of
5 career firefighters or career rescue squad workers shall contribute an amount equal to
6 five percent (5%) of participating firefighters' or rescue squad workers' monthly
7 compensation to the Supplemental Retirement Income Plan to be credited to the
8 designated individual accounts of participating firefighters or rescue squad workers."

9 **SECTION 2.** G.S. 128-21 is amended by adding two new subdivisions to
10 read:

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

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

27 **SECTION 3.** G.S. 128-24(5) reads as rewritten:

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

32 a. Notwithstanding any other provision of this Chapter, any
33 member who separates from service prior to the attainment of
34 the age of 60 years for any reason other than death or retirement
35 for disability as provided in G.S. 128-27(c), after completing 15
36 or more years of creditable service, and who leaves his total
37 accumulated contributions in said System shall have the right to
38 retire on a deferred retirement allowance upon attaining the age
39 of 60 years; provided that such member may retire only upon
40 written application to the Board of Trustees setting forth at what
41 time, not less than one day nor more than 90 days subsequent to
42 the execution and filing thereof, he desires to be retired; and
43 further provided that in the case of a member who so separates
44 from service on or after July 1, 1967, the aforesated

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

11 b. In lieu of the benefits provided in paragraph a of this
 12 subdivision, any member who separates from service prior to
 13 the attainment of the age of 60 years, for any reason other than
 14 death or retirement for disability as provided in G.S. 128-27(c),
 15 after completing 20 or more years of creditable service, and
 16 who leaves his total accumulated contributions in said System
 17 may elect to retire on an early retirement allowance upon
 18 attaining the age of 50 years or at any time thereafter; provided
 19 that such member may so retire only upon written application to
 20 the Board of Trustees setting forth at what time, not less than
 21 one day nor more than 90 days subsequent to the execution and
 22 filing thereof, he desires to be retired. Such early retirement
 23 allowance so elected shall be equal to the deferred retirement
 24 allowance otherwise payable at the attainment of the age of 60
 25 years reduced by the percentage thereof indicated below.

| Age at Retirement | Percentage Reduction |
|-------------------|----------------------|
| 59 | 7 |
| 58 | 14 |
| 57 | 20 |
| 56 | 25 |
| 55 | 30 |
| 54 | 35 |
| 53 | 39 |
| 52 | 43 |
| 51 | 46 |
| 50 | 50 |

39
 40 b1. In lieu of the benefits provided in paragraphs a and b of this
 41 subdivision, any member who is a law enforcement ~~officer~~
 42 officer, career firefighter, or career rescue squad worker at the
 43 time of separation from service prior to the attainment of the
 44 age of 50 years, for any reason other than death or disability as

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

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

35 b3. Deferred retirement allowance of members retiring on or after
36 July 1, 1995. – In lieu of the benefits provided in paragraphs a.
37 and b. of this subdivision, any member who separates from
38 service prior to attainment of age 60 years, after completing 20
39 or more years of creditable service, and who leaves his total
40 accumulated contributions in said System, may elect to retire on
41 a deferred retirement allowance upon attaining the age of 50
42 years or any time thereafter; provided that such member may so
43 retire only upon written application to the Board of Trustees
44 setting forth at what time, not less than one day nor more than

1 90 days subsequent to the execution and filing thereof, he
2 desires to be retired. Such deferred retirement allowance shall
3 be computed in accordance with the service retirement
4 provisions of this Article pertaining to a member who is not a
5 law enforcement ~~officer~~ officer, an eligible former law
6 enforcement ~~officer~~ officer, a career firefighter, an eligible
7 former career firefighter, a career rescue squad worker, or an
8 eligible former career rescue squad worker.

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

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

37 Upon his subsequent retirement, he shall be paid a
38 retirement allowance determined as follows:

39 1. For a member who earns at least three years' membership
40 service after restoration to service, the retirement
41 allowance shall be computed on the basis of his
42 compensation and service before and after the period of
43 prior retirement without restriction; provided, that if the
44 prior allowance was based on a social security leveling

1 payment option, the allowance shall be adjusted
2 actuarially for the difference between the amount
3 received under the optional payment and what would
4 have been paid if the retirement allowance had been paid
5 without optional modification.

- 6 2. For a member who does not earn three years'
7 membership service after restoration to service, the
8 retirement allowance shall be equal to the sum of the
9 retirement allowance to which he would have been
10 entitled had he not been restored to service, without
11 modification of the election of an optional allowance
12 previously made, and the retirement allowance that
13 results from service earned since being restored to
14 service; provided, that if the prior retirement allowance
15 was based on a social security leveling payment option,
16 the prior allowance shall be adjusted actuarially for the
17 difference between the amount that would have been
18 paid for each month had the payment not been suspended
19 and what would have been paid if the retirement
20 allowance had been paid without optional modification."

21 **SECTION 4.** G.S. 128-27(a) reads as rewritten:

22 "(a) Service Retirement Benefits. –

- 23 (1) Any member may retire upon written application to the Board of
24 Trustees setting forth at what time, as of the first day of a calendar
25 month, not less than one day nor more than 90 days subsequent to the
26 execution and filing thereof, he desires to be retired: Provided, that the
27 said member at the time so specified for his retirement shall have
28 attained the age of 60 years and have at least five years of creditable
29 service or shall have completed 30 years of creditable service, or if a
30 fireman, he career firefighter or career rescue squad worker, the
31 member shall have attained the age of 55 years and have at least five
32 years of creditable service.
- 33 (2) Repealed by Session Laws 1983 (Regular Session, 1984), c. 1019, s. 1.
- 34 (3) Repealed by Session Laws 1971, c. 325, s. 12.
- 35 (4) Any member who was in service October 8, 1981, who had attained 60
36 years of age, may retire upon written application to the Board of
37 Trustees setting forth at what time, as of the first day of a calendar
38 month, not less than one day nor more than 90 days subsequent to the
39 execution and filing thereof, he desires to be retired.
- 40 (5) Any member who is a law enforcement officer, career firefighter, or
41 career rescue squad worker and who attains age 50 and completes 15
42 or more years of creditable service in this capacity or who attains age
43 55 and completes five or more years of creditable service in this
44 capacity, may retire upon written application to the Board of Trustees

1 setting forth at what time, as of the first day of a calendar month, not
2 less than one day nor more than 90 days subsequent to the execution
3 and filing thereof, ~~he~~ the member desires to be retired; provided, also,
4 any member who has met the conditions required by this subdivision
5 but does not retire, and later becomes an employee other than as a law
6 enforcement officer, career firefighter, or career rescue squad worker
7 continues to have the right to commence retirement."

8 **SECTION 5.** G.S. 128-27(b21) reads as rewritten:

9 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003-~~
10 2003, but Before January 1, 2006. – Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2003, but before January 1, 2006, a
12 member shall receive the following service retirement allowance:

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

16 a. If the member's service retirement date occurs on or after his
17 55th birthday and completion of five years of creditable service
18 as a law enforcement officer, or after the completion of 30 years
19 of creditable service, the allowance shall be equal to one and
20 eighty-five hundredths percent (1.85%) of his average final
21 compensation, multiplied by the number of years of his
22 creditable service.

23 b. If the member's service retirement date occurs on or after his
24 50th birthday and before his 55th birthday with 15 or more
25 years of creditable service as a law enforcement officer and
26 prior to the completion of 30 years of creditable service, his
27 retirement allowance shall be equal to the greater of:

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

34 2. The service retirement allowance as computed under
35 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
36 times the difference between 30 years and his creditable
37 service at retirement.

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

41 a. If the member's service retirement date occurs on or after his
42 65th birthday upon the completion of five years of creditable
43 service or after the completion of 30 years of creditable service
44 or on or after his 60th birthday upon the completion of 25 years

1 of creditable service, the allowance shall be equal to one and
2 eighty-five hundredths percent (1.85%) of average final
3 compensation, multiplied by the number of years of creditable
4 service.

5 b. If the member's service retirement date occurs after his 60th
6 birthday and before his 65th birthday and prior to his
7 completion of 25 years or more of creditable service, his
8 retirement allowance shall be computed as in
9 G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of
10 one percent (1/4 of 1%) thereof for each month by which his
11 retirement date precedes the first day of the month coincident
12 with or next following his 65th birthday.

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

18 1. The service retirement allowance as computed under
19 G.S. 128-27(b21)(2)a. but reduced by the sum of
20 five-twelfths of one percent (5/12 of 1%) thereof for
21 each month by which his retirement date precedes the
22 first day of the month coincident with or next following
23 the month the member would have attained his 60th
24 birthday, plus one-quarter of one percent (1/4 of 1%)
25 thereof for each month by which his 60th birthday
26 precedes the first day of the month coincident with or
27 next following his 65th birthday; or

28 2. The service retirement allowance as computed under
29 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
30 times the difference between 30 years and his creditable
31 service at retirement; or

32 3. If the member's creditable service commenced prior to
33 July 1, 1995, the service retirement allowance equal to
34 the actuarial equivalent of the allowance payable at the
35 age of 60 years as computed in G.S. 128-27(b21)(2)b.

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

39 **SECTION 6.** G.S. 128-27 is amended by adding a new subsection to read:

40 "(b22) Service Retirement Allowance of Member Retiring on or After January 1,
41 2006. – Upon retirement from service in accordance with subsection (a) or (a1) above,
42 on or after January 1, 2006, a member shall receive the following service retirement
43 allowance:

1 (1) A member who is a law enforcement officer, an eligible former law
2 enforcement officer, a career firefighter, an eligible former career
3 firefighter, a career rescue squad worker, or an eligible former career
4 rescue squad worker shall receive a service retirement allowance
5 computed as follows:

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

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

20 1. The service retirement allowance payable under
21 G.S. 128-27(b22)(1)a. reduced by one-third of one
22 percent (1/3 of 1%) thereof for each month by which his
23 retirement date precedes the first day of the month
24 coincident with or next following the month the member
25 would have attained his 55th birthday;

26 2. The service retirement allowance as computed under
27 G.S. 128-27(b22)(1)a. reduced by five percent (5%)
28 times the difference between 30 years and his creditable
29 service at retirement.

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

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

43 b. If the member's service retirement date occurs after his 60th
44 birthday and before his 65th birthday and prior to his

1 completion of 25 years or more of creditable service, his
2 retirement allowance shall be computed as in
3 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
4 one percent (1/4 of 1%) thereof for each month by which his
5 retirement date precedes the first day of the month coincident
6 with or next following his 65th birthday.

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

12 1. The service retirement allowance as computed under
13 G.S. 128-27(b22)(2)a. but reduced by the sum of
14 five-twelfths of one percent (5/12 of 1%) thereof for
15 each month by which his retirement date precedes the
16 first day of the month coincident with or next following
17 the month the member would have attained his 60th
18 birthday, plus one-quarter of one percent (1/4 of 1%)
19 thereof for each month by which his 60th birthday
20 precedes the first day of the month coincident with or
21 next following his 65th birthday; or

22 2. The service retirement allowance as computed under
23 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
24 times the difference between 30 years and his creditable
25 service at retirement; or

26 3. If the member's creditable service commenced prior to
27 July 1, 1995, the service retirement allowance equal to
28 the actuarial equivalent of the allowance payable at the
29 age of 60 years as computed in G.S. 128-27(b22)(2)b.

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

33 **SECTION 7.** G.S. 128-27(m) reads as rewritten:

34 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
35 principal beneficiary designated to receive a return of accumulated contributions shall
36 have the right to elect to receive in lieu thereof the reduced retirement allowance
37 provided by Option two of subsection (g) above computed by assuming that the member
38 had retired on the first day of the month following the date of his death, provided that all
39 three of the following conditions apply:

40 (1) a. The member had attained such age and/or creditable service to
41 be eligible to commence retirement with an early or service
42 retirement allowance, or

43 b. The member had obtained 20 years of creditable service in
44 which case the retirement allowance shall be computed in

1 accordance with ~~G.S. 128-27(b21)(1)b.~~ or
 2 ~~G.S. 128-27(b21)(2)e.,~~ G.S. 128-27(b22)(1)b. or
 3 G.S. 128-27(b22)(2)c., notwithstanding the requirement of
 4 obtaining age 50, or

5 c. The member had not commenced to receive a retirement
 6 allowance as provided under this Chapter.

7 (2) The member had designated as the principal beneficiary to receive a
 8 return of his accumulated contributions one and only one person who
 9 is living at the time of his death.

10 (3) The member had not instructed the Board of Trustees in writing that he
 11 did not wish the provisions of this subsection apply.

12 For the purpose of this benefit, a member is considered to be in service at the date of
 13 his death if his death occurs within 180 days from the last day of his actual service. The
 14 last day of actual service shall be determined as provided in subsection (1) of this
 15 section. Upon the death of a member in service, the surviving spouse may make all
 16 purchases for creditable service as provided for under this Chapter for which the
 17 member had made application in writing prior to the date of death, provided that the
 18 date of death occurred prior to or within 60 days after notification of the cost to make
 19 the purchase."

20 **SECTION 8.** This act becomes effective January 1, 2006, but shall not affect
 21 the rights of a person who is a vested member of the Local Governmental Employees'
 22 Retirement System on that date to any disability benefits for which that person is
 23 otherwise eligible on that date.