

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE DRS35169-LL-99 (03/11)

Short Title: Career Fire and Rescue Retirement.

(Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

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

5 The General Assembly of North Carolina enacts:

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

1 receive a refund of the member's accumulated contributions  
2 for the period of service after restoration to service in  
3 accordance with G.S. 128-27(f).

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

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

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

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

47 "(a) Service Retirement Benefits. –

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

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

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

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

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

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

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

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

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

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

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

- 44 1. The service retirement allowance payable under  
 45 G.S. 128-27(b21)(1)a. reduced by one-third of one percent  
 46 (1/3 of 1%) thereof for each month by which his retirement  
 47 date precedes the first day of the month coincident with or  
 48 next following the month the member would have attained his  
 49 55th birthday;
- 50 2. The service retirement allowance as computed under  
 51 G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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