

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2019**

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**SENATE BILL 374**  
**Pensions and Retirement and Aging Committee Substitute Adopted 4/18/19**

Short Title: Repeal Risky Retirement Payments.

(Public)

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Sponsors:

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Referred to:

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March 28, 2019

A BILL TO BE ENTITLED

1 AN ACT TO ELIMINATE THE OPTION FOUR AND OPTION SIX RETIREMENT  
2 OPTIONAL ALLOWANCES UNDER THE TEACHERS' AND STATE EMPLOYEES'  
3 RETIREMENT SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES'  
4 RETIREMENT SYSTEM.  
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.(a)** G.S. 135-5(g) reads as rewritten:

8 "(g) Election of Optional Allowance. – With the provision that until the first payment on  
9 account of any benefit becomes normally due, or the member's first retirement check has been  
10 cashed, any member may elect to receive his or her benefits in a retirement allowance payable  
11 throughout life, or the member may elect to receive the actuarial equivalent of such retirement  
12 allowance, including any special retirement allowance, in a reduced allowance payable  
13 throughout life under the provisions of one of the options set forth below. The election of Option  
14 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies  
15 prior to the date the first payment becomes normally due or until the member's first retirement  
16 check has been cashed. Such election may be revoked by the member prior to the date the first  
17 payment becomes normally due or until the member's first retirement check has been cashed.  
18 Provided, however, in the event a member has elected Option 2, 3, or 5 and nominated his or her  
19 spouse to receive a retirement allowance upon the member's death, and the spouse predeceases  
20 the member after the first payment becomes normally due or the first retirement check has been  
21 cashed, if the member remarries he or she may request to nominate a new spouse to receive the  
22 retirement allowance under the previously elected option, within 90 days of the remarriage, and  
23 may nominate a new spouse to receive the retirement allowance under the previously elected  
24 option by written designation duly acknowledged and filed with the Board of Trustees within  
25 120 days of the remarriage. The new nomination shall be effective on the first day of the month  
26 in which it is made and shall provide for a retirement allowance computed to be the actuarial  
27 equivalent of the retirement allowance in effect immediately prior to the effective date of the new  
28 nomination. Any member having elected Option 2, 3, 5, or 6 and nominated his or her spouse to  
29 receive a retirement allowance upon the member's death may, after divorce from his or her  
30 spouse, revoke the nomination and elect a new option, effective on the first day of the month in  
31 which the new option is elected, providing for a retirement allowance computed to be the  
32 actuarial equivalent of the retirement allowance in effect immediately prior to the effective date  
33 of the new option. Except as provided in this section, the member may not change the member's  
34 retirement benefit option or the member's designated beneficiary for survivor benefits, if any,  
35 after the member has cashed the first retirement check or after the 25th day of the month



1 following the month in which the first check is mailed, whichever comes first. The following are  
2 optional allowances that a member may elect under this subsection:

3 ...

4 Option 4. Adjustment of Retirement Allowance for Social Security ~~Benefits.~~ Benefits for  
5 Members Retiring On or Before July 1, 2020. – Until the first payment on account of any benefit  
6 becomes normally due, any member retiring on or before July 1, 2020, may elect to convert his  
7 or her benefit otherwise payable on ~~his~~ the member's account after retirement into a retirement  
8 allowance of equivalent actuarial value of such amount that with ~~his~~ the member's benefit under  
9 Title II of the Federal Social Security Act, ~~he~~ the member will receive, so far as possible,  
10 approximately the same amount per year before and after the earliest age at which ~~he~~ the member  
11 becomes eligible, effective as of the first of the month following the month of initial entitlement,  
12 upon application therefor, to receive a social security benefit.

13 ...

14 Option 6. For Members Retiring On or Before July 1, 2020. – A member retiring on or before  
15 July 1, 2020, may elect either Option 2 or Option 3 with the added provision that in the event the  
16 designated beneficiary predeceases the member, the retirement allowance payable to the member  
17 after the designated beneficiary's death shall be equal to the retirement allowance which would  
18 have been payable had the member not elected the option.

19 Upon the death of a member after the effective date of a retirement for which the member  
20 has been approved and following receipt by the Board of Trustees of an election of benefits (Form  
21 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit shall  
22 be payable as provided by the member's election of benefits under this subsection.

23 Upon the death of a member after the effective date of a retirement for which the member  
24 has been approved but prior to the receipt by the Board of Trustees of an election of benefits  
25 (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's  
26 designated beneficiary for a return of accumulated contributions may elect to receive the benefit,  
27 if only one beneficiary is eligible to receive the return of accumulated contributions. If more than  
28 one beneficiary is eligible to receive the return of accumulated contributions, or if no beneficiary  
29 has been designated, the administrator or executor of the member's estate will select an option  
30 and name the beneficiary or beneficiaries."

31 **SECTION 1.(b)** G.S. 128-27(g) reads as rewritten:

32 "(g) Election of Optional Allowance. – With the provision that until the first payment on  
33 account of any benefit becomes normally due, or the member's first retirement check has been  
34 cashed, any member may elect to receive his or her benefits in a retirement allowance payable  
35 throughout life, or the member may elect to receive the actuarial equivalent of such retirement  
36 allowance, including any special retirement allowance, in a reduced allowance payable  
37 throughout life under the provisions of one of the Options set forth below. The election of Option  
38 2, 3, or 6 or nomination of the person thereunder shall be revoked if such person nominated dies  
39 prior to the date the first payment becomes normally due or the first retirement check has been  
40 cashed. Such election may be revoked by the member prior to the date the first payment becomes  
41 normally due or the member's first retirement check has been cashed. Provided, however, in the  
42 event a member has elected Option 2, 3, or 5 and nominated his or her spouse to receive a  
43 retirement allowance upon the member's death, and the spouse predeceases the member after the  
44 first payment becomes normally due or the first retirement check has been cashed, if the member  
45 remarries he or she may request to nominate a new spouse to receive the retirement allowance  
46 under the previously elected option, within 90 days of the remarriage, and may nominate a new  
47 spouse to receive the retirement allowance under the previously elected option by written  
48 designation duly acknowledged and filed with the Board of Trustees within 120 days of the  
49 remarriage. The new nomination shall be effective on the first day of the month in which it is  
50 made and shall provide for a retirement allowance computed to be the actuarial equivalent of the  
51 retirement allowance in effect immediately prior to the effective date of the new nomination. Any

1 member having elected Option 2, 3, 5, or 6 and nominated his or her spouse to receive a  
2 retirement allowance upon the member's death may, after divorce from his or her spouse, revoke  
3 the nomination and elect a new option, effective on the first day of the month in which the new  
4 option is elected, providing for a retirement allowance computed to be the actuarial equivalent  
5 of the retirement allowance in effect immediately prior to the effective date of the new option.  
6 Except as provided in this section, the member may not change the member's retirement benefit  
7 option or the member's designated beneficiary for survivor benefits, if any, after the member has  
8 cashed the first retirement check or after the 25th day of the month following the month in which  
9 the first check is mailed, whichever comes first. The following are optional allowances that a  
10 member may elect under this subsection:

11 ...

12 Option four. Adjustment of Retirement Allowance for Social Security ~~Benefits.~~ Benefits for  
13 Members Retiring On or Before July 1, 2020. – Until the first payment on account of any benefit  
14 becomes normally due, any member retiring on or before July 1, 2020, may elect to convert his  
15 or her benefit otherwise payable on ~~his-the member's~~ account after retirement into a retirement  
16 allowance of equivalent actuarial value of such amount that with ~~his-the member's~~ benefit under  
17 Title II of the Federal Social Security Act, ~~he-the member~~ will receive, so far as possible,  
18 approximately the same amount per year before and after the earliest age at which ~~he-the member~~  
19 becomes eligible, effective as of the first of the month following the month of initial entitlement,  
20 upon application therefor, to receive a social security benefit.

21 ...

22 Option six. For Members Retiring On or Before July 1, 2020. – A member retiring on or  
23 before July 1, 2020, may elect either Option two or Option three with the added provision that in  
24 the event the designated beneficiary predeceases the member, the retirement allowance payable  
25 to the member after the designated beneficiary's death shall be equal to the retirement allowance  
26 which would have been payable had the member not elected the option.

27 Upon the death of a member after the effective date of a retirement for which the member  
28 has been approved and following receipt by the Board of Trustees of an election of benefits (Form  
29 6-E or Form 7-E) but prior to the cashing of the first benefit check, the retirement benefit shall  
30 be payable as provided by the member's election of benefits under this subsection.

31 Upon the death of a member after the effective date of a retirement for which the member  
32 has been approved but prior to the receipt by the Board of Trustees of an election of benefits  
33 (Form 6-E or Form 7-E), properly acknowledged and filed by the member, the member's  
34 designated beneficiary for a return of accumulated contributions may elect to receive the benefit,  
35 if only one beneficiary is eligible to receive the return of accumulated contributions. If more than  
36 one beneficiary is eligible to receive the return of accumulated contributions, or if no beneficiary  
37 has been designated, the administrator or executor of the member's estate will select an option  
38 and name the beneficiary or beneficiaries."

39 **SECTION 2.** This act is effective when it becomes law. If any provision of this act  
40 or its application is held unconstitutional, then the act applies to new members joining the  
41 Teachers' and State Employees' Retirement System and the Local Governmental Employees'  
42 Retirement System on or after July 1, 2020.