

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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HOUSE BILL 1103

Short Title: Allow Termination of Option Election.

(Public)

Sponsors: Representative Grady.

Referred to: Pensions and Retirement.

April 10, 2003

A BILL TO BE ENTITLED

AN ACT TO REWRITE THE PROVISIONS RELATING TO THE ELECTION OF
OPTIONAL RETIREMENT ALLOWANCES AND TO PERMIT RETIREES
FROM THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM
TO TERMINATE THEIR OPTIONAL ELECTION UNDER CERTAIN
CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(g) and (g1) are repealed.

SECTION 2. Article 1 of Chapter 135 of the General Statutes is amended by
adding a new section to read:

"§ 135-5.05. Election of optional allowance.

(a) Until the member's first retirement check has been cashed, any member may elect to receive the member's benefits in a retirement allowance payable throughout life, or the member may elect to receive the actuarial equivalent of the retirement allowance in a reduced allowance payable throughout life under the provisions of one of the options set forth in subdivisions (1) through (6) of this subsection. The member may revoke the election of an option at any time prior to the date the member's first retirement check has been cashed.

(1) Option 1.

a. In the Case of a Member Who Retires Prior to July 1, 1963. – If he dies before he has received in annuity payments the present value of his annuity as it was at the time of the member's retirement, the balance 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 the member dies within 10 years from his retirement date, an amount equal to his accumulated contributions at retirement, less 1/120 thereof for each month

1 for which he has received a retirement allowance payment, shall
2 be paid to his legal representative or to such person as he shall
3 nominate by written designation duly acknowledged and filed
4 with the Board of Trustees.

5 (2) Option 2.

6 Upon the member's death, a reduced retirement allowance shall be
7 continued throughout the life of and paid to such person as the member
8 shall nominate by written designation duly acknowledged and filed
9 with the Board of Trustees at the time of the member's retirement,
10 provided that if the person selected is other than the member's spouse
11 the reduced retirement allowance payable to the member shall not be
12 less than one-half of the retirement allowance without optional
13 modification which would otherwise be payable to the member.

14 (3) Option 3.

15 Upon the member's death, one-half of the member's reduced retirement
16 allowance shall be continued throughout the life of and paid to such
17 person as the member shall nominate by written designation duly
18 acknowledged and filed with the Board of Trustees at the time of the
19 member's retirement.

20 (4) Option 4.

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

30 (5) Option 5.

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

42 (6) Option 6.

43 A member may elect either Option 2 or Option 3 with the added
44 provision that in the event the designated beneficiary predeceases the

1 member, the retirement allowance payable to the member after the
2 designated beneficiary's death shall be equal to the retirement
3 allowance which would have been payable had the member not elected
4 the option.

5 (b) In the event a member has elected Option 2 or Option 3 and the designated
6 beneficiary dies prior to the date the first retirement check is cashed, the optional
7 election shall be revoked, and the member may either nominate another person to
8 receive the benefit upon the member's death or the member may elect to receive the
9 retirement allowance which would have been payable had the member not elected the
10 option. In the event a member has elected Option 2 or Option 3 and nominated the
11 member's spouse to receive a retirement allowance upon the member's death and the
12 spouse predeceases the member after the first retirement check has been cashed, if the
13 member remarries, the member may nominate a new spouse to receive the retirement
14 allowance under the previously elected option, within 90 days of the remarriage. The
15 new nomination shall be effective on the first day of the month in which it is made and
16 shall provide for a retirement allowance computed to be the actuarial equivalent of the
17 retirement allowance in effect immediately prior to the effective date of the new
18 nomination.

19 (c) Any member having elected Option 2, 3, or 6 and having nominated the
20 member's spouse to receive a retirement allowance upon the member's death may, after
21 divorce from the spouse, revoke the nomination and elect a new option, effective on the
22 first day of the month in which the new option is elected, providing for a retirement
23 allowance computed to be the actuarial equivalent of the retirement allowance in effect
24 immediately prior to the effective date of the new option.

25 (d) A member who has elected Option 2, 3, or 6, upon retirement, may elect to
26 terminate the option at any time after the first retirement check has been cashed by
27 filing a duly acknowledged form with the Board of Trustees. A member who chooses to
28 terminate an option in accordance with this provision shall not be allowed to rescind the
29 termination or to make any other optional election after the form has been filed. The
30 termination of the option shall be effective on the first day of the month following the
31 month in which the termination is filed with the Board of Trustees. The retirement
32 allowance payable to the member after the termination of the option shall be equal to
33 the retirement allowance which would have been payable had the member not elected
34 the option.

35 (e) In the event of the death of a retired member while in receipt of a retirement
36 allowance under the provisions of this Article, there shall be paid to such person or
37 persons as the retiree shall have nominated by written designation duly acknowledged
38 and filed with the Board of Trustees, if such person or persons are living at the time of
39 the retiree's death, otherwise to the retiree's legal representative, a death benefit equal to
40 the excess, if any, of the accumulated contributions of the retiree at the date of
41 retirement over the total of the retirement allowances paid prior to the death of the
42 retiree.

43 (f) In the event that a retirement allowance becomes payable to the designated
44 beneficiary of a retired member who has elected an option pursuant to this section and

1 the retirement allowance to the beneficiary shall terminate upon the death of the
2 beneficiary before the total of the retirement allowances paid to the retiree and the
3 designated beneficiary combined equals the amount of the accumulated contributions of
4 the retiree at the date of retirement, the excess, if any, of such accumulated
5 contributions over the total of the retirement allowances paid to the retiree and the
6 beneficiary combined shall be paid in a lump sum to such person or persons as the
7 retiree shall have nominated by written designation duly acknowledged and filed with
8 the Board of Trustees, if such person or persons are living at the time such payment falls
9 due, otherwise to the retiree's legal representative."

10 **SECTION 3.** This act becomes effective July 1, 2003.