

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE BILL 710\*

Short Title: Fire and Rescue Workers' Retirement. (Public)

Sponsors: Senators Swindell; Albertson, Atwater, Bingham, Boseman, Holloman, Hoyle, Jenkins, Malone, Rand, Stevens, Swindell, Thomas, and Tillman.

Referred to: Pensions & Retirement and Aging.

March 21, 2005

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 Human Services, and (ii) who is actively serving in a position with

1           assigned primary duties and responsibilities for the alleviation of  
2           human suffering and assistance to persons who are in difficulty, who  
3           are injured, or who become suddenly ill, by providing proper and  
4           efficient care or emergency medical services.

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

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

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

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

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

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

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

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

39          (c) Rights. – Notwithstanding any other provisions of law, any accrued or  
40          inchoate rights of a member of the Law-Enforcement Officers' Retirement System as of  
41          his transfer to the Local Governmental Employees' Retirement System on January 1,  
42          1986, including the rights to a vested deferred retirement allowance and to commence  
43          retirement at certain ages with required years of service as a law-enforcement officer,  
44          may in no way be diminished; provided, however, in no event may a member

1 commence retirement and continue membership service with the same Retirement  
2 System after January 1, 1986.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

38  
 39 b1. In lieu of the benefits provided in paragraphs a and b of this  
 40 subdivision, any member who is a law enforcement ~~officer~~  
 41 officer, career firefighter, or career rescue squad worker at the  
 42 time of separation from service prior to the attainment of the  
 43 age of 50 years, for any reason other than death or disability as  
 44 provided in this Article, after completing 15 or more years of

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

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

34           b3. Deferred retirement allowance of members retiring on or after  
35           July 1, 1995. – In lieu of the benefits provided in paragraphs a.  
36           and b. of this subdivision, any member who separates from  
37           service prior to attainment of age 60 years, after completing 20  
38           or more years of creditable service, and who leaves his total  
39           accumulated contributions in said System, may elect to retire on  
40           a deferred retirement allowance upon attaining the age of 50  
41           years or any time thereafter; provided that such member may so  
42           retire only upon written application to the Board of Trustees  
43           setting forth at what time, not less than one day nor more than  
44           90 days subsequent to the execution and filing thereof, he

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

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

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

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

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





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

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

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

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

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

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

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

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

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

40 a. If the member's service retirement date occurs on or after his  
41 65th birthday upon the completion of five years of creditable  
42 service or after the completion of 30 years of creditable service  
43 or on or after his 60th birthday upon the completion of 25 years  
44 of creditable service, the allowance shall be equal to one and

1 eighty-five hundredths percent (1.85%) of average final  
2 compensation, multiplied by the number of years of creditable  
3 service.

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

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

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

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

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

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

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

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

43 (1) A member who is a law enforcement officer, an eligible former law  
44 enforcement officer, a career firefighter, an eligible former career

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

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

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

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

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

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

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

41 b. If the member's service retirement date occurs after his 60th  
42 birthday and before his 65th birthday and prior to his  
43 completion of 25 years or more of creditable service, his  
44 retirement allowance shall be computed as in

1 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of  
 2 one percent (1/4 of 1%) thereof for each month by which his  
 3 retirement date precedes the first day of the month coincident  
 4 with or next following his 65th birthday.

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

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

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

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

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

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

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

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

41 b. The member had obtained 20 years of creditable service in  
 42 which case the retirement allowance shall be computed in  
 43 accordance with G.S. 128-27(b21)(1)b. ~~or~~  
 44 G.S. 128-27(b21)(2)e., G.S. 128-27(b22)(1)b. or

- 1                                    G.S. 128-27(b22)(2)c., notwithstanding the requirement of  
2                                    obtaining age 50, or  
3                                    c.     The member had not commenced to receive a retirement  
4                                    allowance as provided under this Chapter.  
5                                    (2)    The member had designated as the principal beneficiary to receive a  
6                                    return of his accumulated contributions one and only one person who  
7                                    is living at the time of his death.  
8                                    (3)    The member had not instructed the Board of Trustees in writing that he  
9                                    did not wish the provisions of this subsection apply.

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

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