

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 927
Committee Substitute Favorable 6/8/11**

Short Title: State Pension Plan Solvency Reform Act.

(Public)

Sponsors:

Referred to:

May 5, 2011

A BILL TO BE ENTITLED

1 AN ACT TO MAKE CHANGES TO THE STATUTES GOVERNING THE TEACHERS'
2 AND STATE EMPLOYEES' RETIREMENT SYSTEM AND THE CONSOLIDATED
3 JUDICIAL RETIREMENT SYSTEM TO ENSURE THE FUTURE SOLVENCY OF
4 THOSE SYSTEMS, TO AMEND THE PROVISIONS OF THE SPECIAL SEPARATION
5 ALLOWANCE FOR LAW ENFORCEMENT OFFICERS FOR LAW ENFORCEMENT
6 OFFICERS HIRED ON OR AFTER AUGUST 1, 2011, AND TO MAKE IT A CLASS 1
7 MISDEMEANOR TO FRAUDULENTLY RECEIVE THE RETIREMENT BENEFIT OF
8 A DECEASED RETIREE AT LEAST TWO MONTHS AFTER THE RETIREE'S
9 DEATH.
10

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.** G.S. 135-3(8) reads as rewritten:

13 "(8) The provisions of this subsection (8) shall apply to any member whose
14 membership is terminated on or after July 1, 1963 and who becomes entitled
15 to benefits hereunder in accordance with the provisions hereof.

- 16 a. Notwithstanding any other provision of this Chapter, any member
17 who became a member prior to August 1, 2011, and who separates
18 from service prior to the attainment of the age of 60 years for any
19 reason other than death or retirement for disability as provided in
20 G.S. 135-5(c), after completing 15 or more years of creditable
21 service, and who leaves his total accumulated contributions in said
22 System shall have the right to retire on a deferred retirement
23 allowance upon attaining the age of 60 years; provided that such
24 member may retire only upon electronic submission or written
25 application to the Board of Trustees setting forth at what time, not
26 less than one day nor more than ~~90~~120 days subsequent to the
27 execution and filing thereof, he desires to be retired; and further
28 provided that in the case of a member who so separates from service
29 on or after July 1, 1967, or whose account is active on July 1, 1967,
30 or has not withdrawn his contributions, the aforestated requirement
31 of 15 or more years of creditable service shall be reduced to 12 or
32 more years of creditable service; and further provided that in the case
33 of a member who so separates from service on or after July 1, 1971,
34 or whose account is active on July 1, 1971, the aforestated
35 requirement of 12 or more years of creditable service shall be
36 reduced to five or more years of creditable service. Such deferred
37 retirement allowance shall be computed in accordance with the



1 service retirement provisions of this Article pertaining to a member
 2 who is not a law enforcement officer or an eligible former law
 3 enforcement officer. Notwithstanding the foregoing, any member
 4 whose services as a teacher or employee are terminated for any
 5 reason other than retirement, who becomes employed by a nonprofit,
 6 nonsectarian private school in North Carolina below the college level
 7 within one year after such teacher or employee has ceased to be a
 8 teacher or employee, may elect to leave his total accumulated
 9 contributions in the Teachers' and State Employees' Retirement
 10 System during the period he is in the employment of such employer;
 11 provided that he files notice thereof in writing with the Board of
 12 Trustees of the Retirement System within five years after separation
 13 from service as a public school teacher or State employee; such
 14 member shall be deemed to have met the requirements of the above
 15 provisions of this subdivision upon attainment of age 60 while in
 16 such employment provided that he is otherwise vested.

17 b. In lieu of the benefits provided in paragraph a of this subdivision (8),
 18 any member who became a member prior to August 1, 2011, and
 19 who separates from service prior to the attainment of the age of 60
 20 years, for any reason other than death or retirement for disability as
 21 provided in G.S. 135-5(c), after completing 20 or more years of
 22 creditable service, and who leaves his total accumulated
 23 contributions in said System, may elect to retire on an early
 24 retirement allowance upon attaining the age of 50 years or at any
 25 time thereafter; provided that such member may so retire only upon
 26 electronic submission or written application to the Board of Trustees
 27 setting forth at what time, not less than one day nor more than ~~90-120~~
 28 days subsequent to the execution and filing thereof, he desires to be
 29 retired. Such early retirement allowance so elected shall be equal to
 30 the deferred retirement allowance otherwise payable at the attainment
 31 of the age of 60 years reduced by the percentage thereof indicated
 32 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

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 45 b1. In lieu of the benefits provided in paragraphs a and b of this
 46 subdivision, any member who became a member prior to August 1,
 47 2011, and who is a law-enforcement officer at the time of separation
 48 from service prior to the attainment of the age of 50 years, for any
 49 reason other than death or disability as provided in this Article, after
 50 completing 15 or more years of creditable service in this capacity
 51 immediately prior to separation from service, and who leaves his

1 total accumulated contributions in this System may elect to retire on
2 a deferred early retirement allowance upon attaining the age of 50
3 years or at any time thereafter; provided, that the member may
4 commence retirement only upon electronic submission or written
5 application to the Board of Trustees setting forth at what time, as of
6 the first day of a calendar month, not less than one day nor more than
7 ~~90~~120 days subsequent to the execution and filing thereof, he desires
8 to commence retirement. The deferred early retirement allowance
9 shall be computed in accordance with the service retirement
10 provisions of this Article pertaining to law-enforcement officers.

11 b2. In lieu of the benefits provided in paragraphs a and b of this
12 subdivision, any member who became a member prior to August 1,
13 2011, and who is a law-enforcement officer at the time of separation
14 from service prior to the attainment of the age of 55 years, for any
15 reason other than death or disability as provided in this Article, after
16 completing five or more years of creditable service in this capacity
17 immediately prior to separation from service, and who leaves his
18 total accumulated contributions in this System may elect to retire on
19 a deferred early retirement allowance upon attaining the age of 55
20 years or at any time thereafter; provided, that the member may
21 commence retirement only upon electronic submission or written
22 application to the Board of Trustees setting forth at what time, as of
23 the first day of a calendar month not less than one day nor more than
24 ~~90~~120 days subsequent to the execution and filing thereof, he desires
25 to commence retirement. The deferred early retirement allowance
26 shall be computed in accordance with the service retirement
27 provisions of this Article pertaining to law-enforcement officers.

28 b3. Vested deferred retirement allowance of members retiring on or after
29 July 1, 1994. – In lieu of the benefits provided in paragraphs a. and b.
30 of this subdivision, any member who became a member prior to
31 August 1, 2011, and who separates from service prior to attainment
32 of age 60 years, after completing 20 or more years of creditable
33 service, and who leaves his total accumulated contributions in said
34 System, may elect to retire on a deferred retirement allowance upon
35 attaining the age of 50 years or any time thereafter; provided that
36 such member may so retire only upon electronic submission or
37 written application to the Board of Trustees setting forth at what
38 time, not less than one day nor more than ~~90~~120 days subsequent to
39 the execution and filing thereof, he desires to be retired. Such
40 deferred retirement allowance shall be computed in accordance with
41 the service retirement provisions of this Article pertaining to a
42 member who is not a law enforcement officer or an eligible former
43 law enforcement officer.

44 b4. Any member who became a member on or after August 1, 2011, and
45 who is not a law enforcement officer and (i) separates from service
46 prior to the attainment of the age of 60 years, after completing 25 or
47 more years of creditable service, and who leaves the member's total
48 accumulated contributions in said System, may elect to retire on an
49 unreduced service retirement allowance upon attaining the age of 60
50 years or at any time thereafter; or (ii) separates from service prior to
51 the attainment of the age of 50 years, after completing 20 or more

1 years of creditable service, and who leaves the member's total
 2 accumulated contributions in said System, may elect to retire on an
 3 early reduced retirement allowance upon attaining the age of 50 years
 4 or at any time thereafter; or (iii) separates from service prior to the
 5 attainment of the age of 60 years, after completing 10 or more years
 6 but less than 25 years of creditable service, and who leaves the
 7 member's total accumulated contributions in said System, may elect
 8 to retire on an early reduced retirement allowance upon attaining the
 9 age of 60 years or at any time thereafter; or (iv) separates from
 10 service prior to the attainment of the age of 65 years, after
 11 completing 10 or more years of creditable service, and who leaves
 12 the member's total accumulated contributions in said System, may
 13 elect to retire on an unreduced retirement allowance upon attaining
 14 the age of 65 years or at any time thereafter; provided that such
 15 member may so retire only upon electronic submission or written
 16 application to the Board of Trustees setting forth at what time, not
 17 less than one day nor more than 120 days subsequent to the execution
 18 and filing thereof, the member desires to be retired.

19 b5. Any member who became a member on or after August 1, 2011, who
 20 is a law enforcement officer and (i) separates from service prior to
 21 attainment of age 50 years, after completing 15 or more years of
 22 creditable service in this capacity, and who leaves the member's total
 23 accumulated contributions in said System, may elect to retire on an
 24 early reduced retirement allowance upon attaining the age of 50 years
 25 or any time thereafter; or (ii) separates from service prior to
 26 attainment of age 55 years, after completing 10 or more years of
 27 creditable service in this capacity, and who leaves the member's total
 28 accumulated contributions in said System, may elect to retire on an
 29 unreduced retirement allowance upon attaining the age of 55 years or
 30 any time thereafter; provided that such member may so retire only
 31 upon electronic submission or written application to the Board of
 32 Trustees setting forth at what time, not less than one day nor more
 33 than 120 days subsequent to the execution and filing thereof, the
 34 member desires to be retired.

35"

36 **SECTION 2.** G.S. 135-5(a) reads as rewritten:

37 "(a) Service Retirement Benefits.

38 (1) Any member who became a member prior to August 1, 2011, may retire
 39 upon electronic submission or written application to the Board of Trustees
 40 setting forth at what time, as of the first day of a calendar month, not less
 41 than one day nor more than 120 days subsequent to the execution of and
 42 filing thereof, he desires to be retired: Provided, that the said member at the
 43 time so specified for his retirement shall have attained the age of 60 years
 44 and have at least five years of membership service or shall have completed
 45 30 years of creditable service.

46 (1a) Any member who became a member on or after August 1, 2011, may retire
 47 upon electronic submission or written application to the Board of Trustees
 48 setting forth at what time, as of the first day of a calendar month, not less
 49 than one day nor more than 120 days subsequent to the execution of and
 50 filing thereof, the member desires to be retired: Provided, that the said
 51 member at the time so specified for the member's retirement shall have

1 attained the age of 60 years and have at least 10 years of membership service
2 or shall have completed 30 years of creditable service.

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

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

9 (4) Any member who is a law-enforcement officer, who became a member prior
10 to August 1, 2011, and who attains age 50 and completes 15 or more years
11 of creditable service in this capacity or who attains age 55 and completes
12 five or more years of creditable service in this capacity, may retire upon
13 electronic submission or written application to the Board of Trustees setting
14 forth at what time, as of the first day of a calendar month, not less than one
15 day nor more than 120 days subsequent to the execution and filing thereof,
16 he desires to be retired; Provided, also, any member who has met the
17 conditions herein required but does not retire, and later becomes a teacher or
18 an employee other than as a law-enforcement officer shall continue to have
19 the right to commence retirement.

20 (4a) Any member who is a law-enforcement officer, who became a member on or
21 after August 1, 2011, and who attains age 50 and completes 15 or more years
22 of creditable service in this capacity or who attains age 55 and completes 10
23 or more years of creditable service in this capacity, may retire upon
24 electronic submission or written application to the Board of Trustees setting
25 forth at what time, as of the first day of a calendar month, not less than one
26 day nor more than 120 days subsequent to the execution and filing thereof,
27 the member desires to be retired; Provided, also, any member who has met
28 the conditions herein required but does not retire, and later becomes a
29 teacher or an employee other than as a law-enforcement officer shall
30 continue to have the right to commence retirement.

31 (5) Any member who is eligible for and is being paid a benefit under the
32 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106 shall be
33 deemed a member in service and may not retire under the provisions of this
34 section. Any member who has made electronic submission or written
35 application for long-term or extended short-term benefits under the
36 Disability Income Plan as provided in G.S. 135-105 or G.S. 135-106, and
37 who has been rejected by the Plan's Medical Board for a long-term or
38 extended short-term benefit shall have 90 days from the date of notification
39 of the rejection to convert his application to an early or service retirement
40 application, provided that the member meets the eligibility requirements,
41 effective the first day of the month following the month in which short-term
42 disability benefits ended or the first day of the month following the month in
43 which any salary continuation as may be provided in G.S. 135-104 ended,
44 whichever is later."

45 **SECTION 3.** G.S. 135-5 is amended by adding a new subsection to read:

46 "(a2) Early Service Retirement Benefits. – Any member who became a member on or
47 after August 1, 2011, who is a law enforcement officer may retire and receive a reduced
48 retirement allowance upon electronic submission or written application to the Board of Trustees
49 setting forth at what time, as of the first day of a calendar month, not less than one day nor
50 more than 120 days subsequent to the execution of and filing thereof, the member desires to be

1 retired; however, the member at the time so specified for the member's retirement shall have
2 attained the age of 50 years and have at least 15 years of creditable service."

3 **SECTION 4.** G.S. 135-5(b19) reads as rewritten:

4 "(b19) Service Retirement Allowance of Members Who Became a Member Prior to
5 August 1, 2011, Retiring on or After July 1, 2002. – Upon retirement from service in
6 accordance with subdivision (a)(1), (a)(4), or subsection (a) or (a1) above, of this section, on or
7 after July 1, 2002, a member shall receive the following service retirement allowance:

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

11 a. If the member's service retirement date occurs on or after his 55th
12 birthday, and completion of five years of creditable service as a law
13 enforcement officer, or after the completion of 30 years of creditable
14 service, the allowance shall be equal to one and eighty-two
15 hundredths percent (1.82%) of his average final compensation,
16 multiplied by the number of years of his creditable service.

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

22 1. The service retirement allowance payable under
23 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
24 of 1%) thereof for each month by which his retirement date
25 precedes the first day of the month coincident with or next
26 following the month the member would have attained his
27 55th birthday; or

28 2. The service retirement allowance as computed under
29 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
30 difference between 30 years and his creditable service at
31 retirement.

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

35 a. If the member's service retirement date occurs on or after his 65th
36 birthday upon the completion of five years of membership service or
37 after the completion of 30 years of creditable service or on or after
38 his 60th birthday upon the completion of 25 years of creditable
39 service, the allowance shall be equal to one and eighty-two
40 hundredths percent (1.82%) of his average final compensation,
41 multiplied by the number of years of creditable service.

42 b. If the member's service retirement date occurs after his 60th birthday
43 and before his 65th birthday and prior to his completion of 25 years
44 or more of creditable service, his retirement allowance shall be
45 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
46 one-quarter of one percent (¼ of 1%) thereof for each month by
47 which his retirement date precedes the first day of the month
48 coincident with or next following his 65th birthday.

49 c. If the member's early service retirement date occurs on or after his
50 50th birthday and before his 60th birthday and after completion of 20
51 years of creditable service but prior to the completion of 30 years of

1 creditable service, his early service retirement allowance shall be
2 equal to the greater of:

- 3 1. The service retirement allowance as computed under
4 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
5 of one percent (5/12 of 1%) thereof for each month by which
6 his retirement date precedes the first day of the month
7 coincident with or next following the month the member
8 would have attained his 60th birthday, plus one-quarter of one
9 percent (¼ of 1%) thereof for each month by which his 60th
10 birthday precedes the first day of the month coincident with
11 or next following his 65th birthday; or
- 12 2. The service retirement allowance as computed under
13 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the
14 difference between 30 years and his creditable service at
15 retirement; or
- 16 3. If the member's creditable service commenced prior to July 1,
17 1994, the service retirement allowance equal to the actuarial
18 equivalent of the allowance payable at the age of 60 years as
19 computed in G.S. 135-5(b19)(2)b.

- 20 d. Notwithstanding the foregoing provisions, any member whose
21 creditable service commenced prior to July 1, 1963, shall not receive
22 less than the benefit provided by G.S. 135-5(b)."

23 **SECTION 5.** G.S. 135-5 is amended by adding a new subsection to read:

24 "(b20) Service Retirement Allowance of Members Who Became a Member On or After
25 August 1, 2011. – Upon retirement from service in accordance with subdivision (a)(1a) or
26 (a)(4a) or subsection (a1) or (a2) of this section, a member shall receive the following service
27 retirement allowance:

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

31 a. If the member's service retirement date occurs on or after the
32 member's 55th birthday, and completion of 10 years of creditable
33 service as a law enforcement officer, or after the completion of 30
34 years of creditable service, the allowance shall be equal to one and
35 eighty-two hundredths percent (1.82%) of the member's average final
36 compensation, multiplied by the number of years of his creditable
37 service.

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

43 1. The service retirement allowance payable under
44 G.S. 135-5(b20)(1)a. reduced by one-third of one percent (1/3
45 of 1%) thereof for each month by which the member's
46 retirement date precedes the first day of the month coincident
47 with or next following the month the member would have
48 attained the member's 55th birthday; or

49 2. The service retirement allowance as computed under
50 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times the

difference between 30 years and the member's creditable service at retirement.

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

a. If the member's service retirement date occurs on or after his 65th birthday upon the completion of 10 years of membership service or after the completion of 30 years of creditable service or on or after the member's 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of the member's average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after the member's 60th birthday and before the member's 65th birthday and prior to the member's completion of 25 years or more of creditable service, the member's retirement allowance shall be computed as in G.S. 135-5(b20)(2)a. but shall be reduced by one-fourth of one percent (¼ of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the member's 65th birthday.

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

1. The service retirement allowance as computed under G.S. 135-5(b20)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-fourth of one percent (¼ of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following the member's 65th birthday;

or

2. The service retirement allowance as computed under G.S. 135-5(b20)(2)a. reduced by five percent (5%) times the difference between 30 years and the member's creditable service at retirement."

SECTION 6. G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, who became a member prior to August 1, 2011, the principal beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of his death, provided that the following conditions apply:

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

- 1 b. The member had obtained 20 years of creditable service in which
2 case the retirement allowance shall be computed in accordance with
3 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding the
4 requirement of obtaining age 50,
5 b1. The member was a law enforcement officer who had obtained 15
6 years of service as a law enforcement officer and was killed in the
7 line of duty, in which case the retirement allowance shall be
8 computed in accordance with G.S. 135-5(b19)(1)b., notwithstanding
9 the requirement of obtaining age 50, or
10 c. The member had not commenced to receive a retirement allowance
11 as provided under this Chapter.
12 (2) The member had designated as the principal beneficiary to receive a return
13 of his accumulated contributions one and only one person who was living at
14 the time of his death.
15 (3) The member had not instructed the Board of Trustees in writing that he did
16 not wish the provisions of this subsection to apply.

17 For the purpose of this benefit, a member is considered to be in service at
18 the date of his death if his death occurs within 180 days from the last day of
19 his actual service. The last day of actual service shall be determined as
20 provided in subsection (l) of this section. Upon the death of a member in
21 service, the surviving spouse may make all purchases for creditable service
22 as provided for under this Chapter for which the member had made
23 application in writing prior to the date of death, provided that the date of
24 death occurred prior to or within 60 days after notification of the cost to
25 make the purchase. The term "in service" as used in this subsection includes
26 a member in receipt of a benefit under the Disability Income Plan as
27 provided in Article 6 of this Chapter.

28 Notwithstanding the foregoing, a member who is in receipt of Workers'
29 Compensation during the period for which the member would have
30 otherwise been eligible to receive short-term benefits, as provided in
31 G.S. 135-105, and who dies on or after 181 days from the last day of the
32 member's actual service but on or before the date the benefits as provided in
33 G.S. 135-105 would have ended, shall be considered in service at the time of
34 the member's death for the purpose of this benefit.

35 For the purpose of calculating this benefit any terminal payouts made
36 after the date of death that meet the definition of compensation shall be
37 credited to the month prior to the month of death. These terminal payouts do
38 not include salary or wages paid for work performed during the month of
39 death."

40 **SECTION 7.** G.S. 135-5 is amended by adding a new subsection to read:

41 "(m3) Survivor's Alternate Benefit. – Upon the death of a member in service who became
42 a member on or after August 1, 2011, the principal beneficiary designated to receive a return of
43 accumulated contributions shall have the right to elect to receive in lieu thereof the reduced
44 retirement allowance provided by Option 2 of subsection (g) of this section computed by
45 assuming that the member had retired on the first day of the month following the date of the
46 member's death, provided that the following conditions apply:

- 47 (1) a. The member had attained such age and/or creditable service to be
48 eligible to commence retirement with an early or service retirement
49 allowance.
50 b. The member had obtained 20 years of creditable service in which
51 case the retirement allowance shall be computed in accordance with

1 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding the
2 requirement of obtaining age 50,

3 b1. The member was a law enforcement officer who had attained 15
4 years of service as a law enforcement officer and was killed in the
5 line of duty, in which case the retirement allowance shall be
6 computed in accordance with G.S. 135-5(b20)(1)b., notwithstanding
7 the requirement of attaining age 50.

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

10 (2) At the time of the member's death, one and only one person is eligible to
11 receive a return of the member's contributions.

12 (3) The member had not instructed the Board of Trustees in writing that the
13 member did not wish the provisions of this subsection to apply.

14 For the purpose of this benefit, a member is considered to be in service at
15 the date of the member's death if the member's death occurs within 180 days
16 from the last day of the member's actual service. The last day of actual
17 service shall be determined as provided in subdivision (1) of this subsection.
18 Upon the death of a member in service, the surviving spouse may make all
19 purchases for creditable service as provided for under this Chapter for which
20 the member had made application in writing prior to the date of death,
21 provided that the date of death occurred prior to or within 60 days after
22 notification of the cost to make the purchase. The term, "in service" as used
23 in this subsection, includes a member in receipt of a benefit under the
24 Disability Income Plan as provided in Article 6 of this Chapter.

25 Notwithstanding the foregoing, a member who is in receipt of Workers'
26 Compensation during the period for which the member would have
27 otherwise been eligible to receive short-term benefits, as provided in
28 G.S. 135-105, and who dies on or after 181 days from the last day of the
29 member's actual service but on or before the date the benefits as provided in
30 G.S. 135-105 would have ended, shall be considered in service at the time of
31 the member's death for the purpose of this benefit.

32 For the purpose of calculating this benefit, any terminal payouts made
33 after the date of death that meet the definition of compensation shall be
34 credited to the month prior to the month of death. These terminal payouts do
35 not include salary or wages paid for work performed during the month of
36 death."

37 **SECTION 8.** G.S. 135-57 reads as rewritten:

38 **"§ 135-57. Service retirement.**

39 (a) Any member on or after January 1, 1974, who became a member prior to August 1,
40 2011, and who has attained his fiftieth birthday and five years of membership service may
41 retire upon electronic submission or written application to the board of trustees setting forth at
42 what time, as of the first day of a calendar month, not less than one day nor more than 120 days
43 subsequent to the execution and filing thereof, he desires to be retired.

44 (a1) Any member who became a member on or after August 1, 2011, and who has
45 attained the member's fiftieth birthday and 10 years of membership service may retire upon
46 electronic submission or written application to the Board of Trustees setting forth at what time,
47 as of the first day of a calendar month, not less than one day nor more than 120 days
48 subsequent to the execution and filing thereof, the member desires to be retired.

49 (b) Any member who is a justice or judge of the General Court of Justice shall be
50 automatically retired as of the first day of the calendar month coinciding with or next following
51 the later of January 1, 1974, or his attainment of his seventy-second birthday; provided,

1 however, that no judge who is a member on January 1, 1974, shall be forced to retire under the
2 provisions of this subsection at an earlier date than the last day that he is permitted to remain in
3 office under the provisions of G.S. 7A-4.20.

4 (c) Any member who terminates service on or after January 1, 1974, having
5 accumulated five or more years of creditable service and having become a member prior to
6 August 1, 2011, may retire under the provisions of subsection (a) above, provided that he shall
7 not have withdrawn his accumulated contributions prior to the effective date of his retirement,
8 and the requirement of subsection (a) that the member be in service shall not apply.

9 (c1) Any member having accumulated 10 or more years of creditable service and having
10 become a member on or after August 1, 2011, may retire under the provisions of subsection
11 (a1) above, provided that the member shall not have withdrawn the member's accumulated
12 contributions prior to the effective date of the member's retirement, and the requirement of
13 subsection (a1) that the member be in service shall not apply.

14 (d) Any member who was in service October 8, 1981, who had attained 50 years of age,
15 may retire upon electronic submission or written application to the board of trustees setting
16 forth at what time, as of the first day of a calendar month, not less than one day nor more than
17 120 days subsequent to the execution and filing thereof, he desires to be retired."

18 **SECTION 9.** G.S. 143-166.41 reads as rewritten:

19 **"§ 143-166.41. Special separation allowance.**

20 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
21 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
22 agency, or institution prior to August 1, 2011, and who qualifies under this section shall
23 receive, beginning in the month in which he retires on a basic service retirement under the
24 provisions of ~~G.S. 135-5(a) or G.S. 143-166(y)~~, G.S. 135-5(a), an annual separation allowance
25 equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
26 compensation most recently applicable to him for each year of creditable service. The
27 allowance shall be paid in equal installments on the payroll frequency used by the employer. To
28 qualify for the allowance the officer shall:

- 29 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
30 attained 55 years of age and completed five or more years of creditable
31 service; and
32 (2) Not have attained 62 years of age; and
33 (3) Have completed at least five years of continuous service as a law
34 enforcement officer as herein defined immediately preceding a service
35 retirement. Any break in the continuous service required by this subsection
36 because of disability retirement or disability salary continuation benefits
37 shall not adversely affect an officer's qualification to receive the allowance,
38 provided the officer returns to service within 45 days after the disability
39 benefits cease and is otherwise qualified to receive the allowance.

40 (a1) Notwithstanding any other provision of law, every sworn law-enforcement officer
41 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
42 agency, or institution on or after August 1, 2011, and who qualifies under this section shall
43 receive, beginning in the month in which the member retires on a basic service retirement under
44 the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths
45 percent (0.85%) of the annual equivalent of the base rate of compensation most recently
46 applicable to him for each year of creditable service. The allowance shall be paid in equal
47 installments on the payroll frequency used by the employer. To qualify for the allowance, the
48 officer shall:

- 49 (1) Have (i) completed 30 or more years of creditable service or (ii) attained 55
50 years of age and completed 10 or more years of creditable service; and
51 (2) Not have attained 62 years of age; and

1 (3) Have completed at least 10 years of continuous service as a law enforcement
2 officer as herein defined immediately preceding a service retirement. Any
3 break in the continuous service required by this subsection because of
4 disability retirement or disability salary continuation benefits shall not
5 adversely affect an officer's qualification to receive the allowance, provided
6 the officer returns to service within 45 days after the disability benefits cease
7 and is otherwise qualified to receive the allowance.

8 (b) As used in this section, "creditable service" means the service for which credit is
9 allowed under the retirement system of which the officer is a member, provided that at least
10 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

11 (c) Payment to a retired officer under the provisions of this section shall cease at the
12 first of:

13 (1) The death of the officer;

14 (2) The last day of the month in which the officer attains 62 years of age; or

15 (3) The first day of reemployment by any State department, agency, or
16 institution, except that this subdivision does not apply to an officer returning
17 to State employment in a position exempt from the State Personnel Act in an
18 agency other than the agency from which that officer retired.

19 (d) This section does not affect the benefits to which an individual may be entitled from
20 State, federal, or private retirement systems. The benefits payable under this section shall not
21 be subject to any increases in salary or retirement allowances that may be authorized by the
22 General Assembly for employees of the State or retired employees of the State.

23 (e) The head of each State department, agency, or institution shall determine the
24 eligibility of employees for the benefits provided herein.

25 (f) The Director of the Budget may authorize from time to time the transfer of funds
26 within the budgets of each State department, agency, or institution necessary to carry out the
27 purposes of this Article. These funds shall be taken from those appropriated to the department,
28 agency, or institution for salaries and related fringe benefits.

29 (g) The head of each State department, agency, or institution shall make the payments
30 set forth in subsection (a) to those persons certified under subsection (e) from funds available
31 under subsection (f)."

32 **SECTION 10.(a)** Article 1 of Chapter 135 of the General Statutes is amended by
33 adding a new section to read:

34 **"§ 135-18.11. Improper receipt of decedent's retirement allowance.**

35 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
36 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
37 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
38 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
39 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

40 **SECTION 10.(b)** Article 3 of Chapter 128 of the General Statutes is amended by
41 adding a new section to read:

42 **"§ 128-38.5. Improper receipt of decedent's retirement allowance.**

43 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
44 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
45 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
46 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
47 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

48 **SECTION 10.(c)** Article 4 of Chapter 135 of the General Statutes is amended by
49 adding a new section to read:

50 **"§ 135-75.2. Improper receipt of decedent's retirement allowance.**

1 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
2 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
3 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
4 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
5 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

6 **SECTION 10.(d)** Article 1A of Chapter 120 of the General Statutes is amended by
7 adding a new section to read:

8 "**§ 120-4.34. Improper receipt of decedent's retirement allowance.**

9 A person is guilty of a Class 1 misdemeanor if the person, with the intent to defraud,
10 receives money as a result of cashing, depositing, or receiving a direct deposit of a decedent's
11 retirement allowance and the person (i) knows that he or she is not entitled to the decedent's
12 retirement allowance, (ii) receives the benefit at least two months after the date of the retiree's
13 death, and (iii) does not attempt to inform this Retirement System of the retiree's death."

14 **SECTION 11.** Section 10 of this act becomes effective December 1, 2011, and
15 applies to acts committed on or after that date. The remainder of this act becomes effective
16 August 1, 2011.