

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1311

Short Title: Retirement Tax Equalization.

(Public)

Sponsors: Representatives Hall; and Miller.

Referred to: Pensions and Retirement.

April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO EQUALIZE THE STATE TAX TREATMENT OF ALL CLASSES OF
RETIREMENT BENEFITS IN CONFORMITY WITH THE UNIFORM
FEDERAL APPROACH TO RETIREMENT BENEFITS AND TO INCREASE
STATE AND LOCAL RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 135-5(b10) reads as rewritten:

"(b10) Service Retirement Allowance of Members Retiring on or after July 1,
~~1988-1988, but before July 1, 1989.~~ – Upon retirement from service in accordance with
subsection (a) above, on or after July 1, 1988, but before July 1, 1989, a member shall
receive the following service retirement allowance:

(1) A member who is 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
55th birthday, and completion of five years of creditable service
as a law enforcement officer, or after the completion of 30 years
of creditable service, the allowance shall be equal to one and
sixty hundredths percent (1.60%) of his average final
compensation, multiplied by the number of years of his
creditable service.

b. This allowance shall also be governed by the provisions of G.S.
135-5(b9)(1)b.

1 (2) A member who is not a law enforcement officer or an eligible former
2 law enforcement officer 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 65th birthday upon the completion of five years of creditable
6 service or after the completion of 30 years of creditable service
7 or on or after his 60th birthday upon the completion of 25 years
8 of creditable service, such allowance shall be equal to one and
9 sixty hundredths percent (1.60%) of his average final
10 compensation, multiplied by the number of years of his
11 creditable service.

12 b. This allowance shall also be governed by the provisions of G.S.
13 135-5(b9)(2)b., c. and d."

14 Sec. 2. G.S. 135-5 is amended by adding a new subsection to read:

15 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,
16 1989. – Upon retirement from service in accordance with subsection (a) above, on or
17 after July 1, 1989, a member shall receive the following service retirement allowance:

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

21 a. If the member's service retirement date occurs on or after his
22 55th birthday, and completion of five years of creditable service
23 as a law enforcement officer, or after the completion of 30 years
24 of creditable service, the allowance shall be equal to one and
25 sixty-three hundredths percent (1.63%) of his average final
26 compensation, multiplied by the number of years of his
27 creditable service.

28 b. This allowance shall also be governed by the provisions of G.S.
29 135-5(b9)(1)b.

30 (2) A member who is not a law enforcement officer or an eligible former
31 law enforcement officer 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 sixty-three hundredths percent (1.63%) of his average final
39 compensation, multiplied by the number of years of creditable
40 service.

41 b. This allowance shall also be governed by the provisions of G.S.
42 135-5(b9)(2)b. c. and d."

43 Sec. 3. G.S. 135-5 is amended by adding a new subsection to read:

1 "(pp) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1989.
2 From and after July 1, 1989, the retirement allowance to or on account of beneficiaries
3 on the retirement rolls as of June 1, 1989, shall be increased by one and nine-tenths
4 percent (1.9%) of the allowance payable on June 1, 1989. This allowance shall be
5 calculated on the basis of the allowance payable and in effect on June 30, 1989, so as
6 not to be compounded on any other increase payable under subsection (o) of this section
7 or otherwise granted by act of the 1989 Session of the General Assembly."

8 Sec. 4. G.S. 128-27(b10) reads as rewritten:

9 "(b10) Service Retirement Allowance of Members Retiring on or after July 1,
10 ~~1988-1988, but before July 1, 1989.~~ – Upon retirement from service in accordance with
11 subsection (a) above, on or after July 1, 1988, but before July 1, 1989, a member shall
12 receive the following service retirement allowance:

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

16 a. If the member's service retirement date occurs on or after his
17 55th birthday, and completion of five years of creditable service
18 as a law enforcement officer, or after the completion of 30 years
19 of creditable service, the allowance shall be equal to one and
20 sixty hundredths percent (1.60%) of his average final
21 compensation, multiplied by the number of years of his
22 creditable service.

23 b. Such allowance shall also be governed by the provisions of G.S.
24 128-27(b8)(2).

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

28 a. If the member's service retirement date occurs on or after his
29 65th birthday upon the completion of five years of creditable
30 service or after the completion of 30 years of creditable service,
31 or on or after his 60th birthday upon the completion of 25 years
32 of creditable service, such allowance shall be equal to one and
33 sixty-hundredths percent (1.60%) of his average final
34 compensation, multiplied by the number of years of his
35 creditable service.

36 b. Such allowance shall also be governed by the provisions of G.S.
37 128-27(b7)(2a), (2b) and (3)."

38 Sec. 5. G.S. 128-27 is amended by adding a new section to read:

39 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,
40 1989. – Upon retirement from service in accordance with subsection (a) above, on or
41 after July 1, 1989, a member shall receive the following service retirement allowance:

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

- 1 a. If the member's service retirement date occurs on or after his
2 55th birthday, and completion of five years of creditable service
3 as a law enforcement officer, or after the completion of 30 years
4 of creditable service, the allowance shall be equal to one and
5 sixty-three hundredths percent (1.63%) of his average final
6 compensation, multiplied by the number of years of his
7 creditable service.
- 8 b. This allowance shall also be governed by the provisions of G.S.
9 128-27(b8)(2).

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

- 13 a. If the member's service retirement date occurs on or after his
14 65th birthday upon the completion of five years of creditable
15 service or after the completion of 30 years of creditable service
16 or on or after his 60th birthday upon the completion of 25 years
17 of creditable service, the allowance shall be equal to one and
18 sixty-three hundredths percent (1.63%) of his average final
19 compensation, multiplied by the number of years of creditable
20 service.
- 21 b. This allowance shall also be governed by the provisions of G.S.
22 128-27(b7)(2a) and (3)."

23 Sec. 6. G.S. 128-27 is amended by adding a new subsection to read:

24 "(ff) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1989.
25 From and after July 1, 1989, the retirement allowance to or on account of beneficiaries
26 on the retirement rolls as of June 1, 1989, shall be increased by one and nine-tenths
27 percent (1.9%) of the allowance payable on June 1, 1989. This allowance shall be
28 calculated on the basis of the allowance payable and in effect on June 30, 1989, so as
29 not to be compounded on any other increase payable under subsection (k) of this section
30 or otherwise granted by act of the 1989 Session of the General Assembly."

31 Sec. 7. (a) There is appropriated from the General Fund to a Reserve for
32 Employee Retirement Benefits in Lieu of Tax Exemptions the sum of eight million
33 dollars (\$8,000,000) for the 1989-90 fiscal year and the sum of eight million four
34 hundred thousand dollars (\$8,400,000) for the 1990-91 fiscal year to fund the
35 employer's normal cost of twenty-one hundredths percent (0.21%) of payroll for
36 implementing the provisions of this act as they apply to the Teachers' and State
37 Employees' Retirement System.

38 (b) There is appropriated from the Highway Fund to a Reserve for Employee
39 Retirement Benefits in Lieu of Tax Exemptions the sum of seven hundred thousand
40 dollars (\$700,000) for the 1989-90 fiscal year and the sum of seven hundred ten
41 thousand dollars (\$710,000) for the 1990-91 fiscal year to fund the employer's normal
42 cost of twenty-one hundredths percent (0.21%) of payroll for implementing the
43 provisions of this act as they apply to the Teachers' and State Employees' Retirement
44 System.

1 (c) All other costs to the Teachers' and State Employees' Retirement System and
2 to the Local Governmental Employees' Retirement System for the provisions of this act
3 shall be funded from unencumbered actuarial gains in the Systems as of December 31,
4 1987, by adjusting employer contribution rates for normal and applicable accrued
5 liability costs so that the total employer contribution rate does not increase, except as
6 previously provided by this section, and so that there is not an increase in the scheduled
7 amortization periods for liquidation of unfunded liabilities in the Systems.

8 Sec. 8. G.S. 105-141(b)(8), (13), (14), (18), and (30) are repealed.

9 Sec. 9. G.S. 118-49 reads as rewritten:

10 **"§ 118-49. Exemptions of pensions from attachment; rights nonassignable.**

11 Except for the applications of the provisions of G.S. 110-136, and in connection with
12 a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not
13 subject to attachment, garnishments or judgments against the fireman or rescue squad
14 worker entitled to them, nor are any rights in the fund or the pensions or benefits
15 ~~assignable nor are the pensions subject to any State or municipal tax.~~ assignable."

16 Sec. 10. G.S. 120-4.29 reads as rewritten:

17 **"§ 120-4.29. Exemption from taxes, garnishment, attachment.**

18 Except for the applications of the provisions of G. S. 110-136, and in connection
19 with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
20 pension, annuity, or retirement allowance, to the return of contributions, or to the receipt
21 of the pension, annuity or retirement allowance itself, any optional benefit or any other
22 right accrued or accruing to any person under the provisions of this Article, and the
23 moneys in the various funds created by this Article, ~~are exempt from any State or~~
24 ~~municipal tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other
25 process whatsoever, and shall be unassignable except as this Article specifically
26 provides. Notwithstanding any provisions to the contrary, any overpayment of benefits
27 to a member in a State-administered retirement system or Disability Salary Continuation
28 Plan may be offset against any retirement allowance, return of contributions or any
29 other right accruing under this Chapter to the same person, the person's estate, or
30 designated beneficiary."

31 Sec. 11. G.S. 127A-40(e) is repealed.

32 Sec. 12. G.S. 128-31 reads as rewritten:

33 **"§ 128-31. Exemptions from execution.**

34 Except for the applications of the provisions of G.S. 110- 136, and in connection
35 with a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
36 pension, an annuity, or a retirement allowance, to the return of contributions, the
37 pension, annuity or retirement allowance itself, any optional benefit or any other right
38 accrued or accruing to any person under the provisions of this Article, and the moneys
39 in the various funds created by this Article, ~~are hereby exempt from any state or municipal~~
40 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
41 whatsoever, and shall be unassignable except as in this Article specifically otherwise
42 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
43 to a member in a State-administered retirement system or Disability Salary Continuation
44 Plan may be offset against any retirement allowance, return of contributions or any

1 other right accruing under this Chapter to the same person, the person's estate, or
2 designated beneficiary.”

3 Sec. 13. G.S. 135-9 reads as rewritten:

4 **"§ 135-9. Exemption from ~~taxes, garnishment, attachment, etc.~~**

5 Except for the applications of the provisions of G.S. 110-136, and in connection with
6 a court-ordered equitable distribution under G.S. 50-20, the right of a person to a
7 pension, or annuity, or a retirement allowance, to the return of contributions, the
8 pension, annuity or retirement allowance itself, any optional benefit or any other right
9 accrued or accruing to any person under the provisions of this Chapter, and the moneys
10 in the various funds created by this Chapter, ~~are hereby exempt from any State or municipal~~
11 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
12 whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
13 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
14 to a member in a State-administered retirement system or the former Disability Salary
15 Continuation Plan or the Disability Income Plan of North Carolina may be offset against
16 any retirement allowance, return of contributions or any other right accruing under this
17 Chapter to the same person, the person's estate, or designated beneficiary.”

18 Sec. 14. G.S. 135-95 reads as rewritten:

19 **"§ 135-95. Exemption from ~~taxes, garnishment, attachment.~~**

20 Except for the applications of the provisions of G.S. 110- 136, and in connection
21 with a court-ordered equitable distribution under G.S. 50-20, the right of a member in
22 the Supplemental Retirement Income Plan to the benefits provided under this Article is
23 nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits payable under this~~
24 ~~Article are hereby exempt from any State and local government taxes. and garnishment.”~~

25 Sec. 15. G.S. 143-166.30(g) reads as rewritten:

26 "(g) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
27 participant in the Supplemental Retirement Income Plan to the benefits provided under
28 this Article is nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits~~
29 ~~payable under this Article are hereby exempt from any State and local government taxes. and~~
30 garnishment."

31 Sec. 16. G.S. 143-166.60(h) reads as rewritten:

32 "(h) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
33 participant in the Separate Insurance Benefits Plan to the benefits provided under this
34 Article is nonforfeitable and exempt from levy, sale, and ~~garnishment, and the benefits~~
35 ~~payable under this Article are exempt from any State and local government taxes.~~
36 garnishment."

37 Sec. 17. G.S. 143-166.85(e) is repealed.

38 Sec. 18. G.S. 147-9.4 reads as rewritten:

39 **"§ 147-9.4. Deferred Compensation Plan.**

40 Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision
41 of law relating to salaries or salary schedules of State employees, the chief executive
42 officer of an employer, on behalf of the employer, may from time to time enter into a
43 contract with an employee under which the employee irrevocably elects to defer receipt
44 of a portion of his scheduled salary in the future, but only if, as a result of such contract,

1 the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-
2 426.24 or pursuant to some other plan established before 1 January 1983, and is not
3 constructively received by the employee in the year in which it was earned, for State
4 and federal income tax purposes. In addition, the income so deferred shall be invested
5 in the manner provided in the applicable Plan; however, the employee may revoke his
6 election to participate and may amend the amount of compensation to be deferred by
7 signing and filing with the Board a written revocation or amendment on a form and in
8 the manner approved by the Board. Any such revocation or amendment shall be
9 effective prospectively only and shall cause no change in the allocation of amounts
10 invested prior to the filing date of such revocation or amendment.

11 An employee who has agreed to the deferral of income pursuant to the Plan shall
12 have the right to receive the income so deferred only in accordance with the provisions
13 of the Plan. Funds so deferred shall not be in lieu of any amount earned by the employee
14 before his election to defer compensation became effective. The agreement to defer
15 income referred to herein shall be effective under such necessary regulations and
16 procedures as are adopted by the Board, and on forms prepared or approved by it.
17 Notwithstanding any other provisions of law, the amount by which the salary of an
18 employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in
19 computing and making payroll deductions for social security and retirement system
20 purposes, if any, and in computing and providing matching funds for retirement system
21 purposes, if any.

22 Except for the applications of the provisions of G.S. 110-136, and in connection with
23 a court-ordered equitable distribution under G.S. 50-20, the right of an employee, who
24 elects to defer income pursuant to the North Carolina Public Employee Deferred
25 Compensation Plan under G.S. 143B-426.24, to benefits that have vested under the
26 Plan, is nonforfeitable. These benefits are exempt from levy, sale, and garnishment,
27 except as provided by this ~~section, and exempt from all State and local taxation.~~ section.”

28 Sec. 19. G.S. 161-50.5(e) is repealed.

29 Sec. 20. Chapter 1307 of the 1979 Session Laws and Chapter 1076 of the
30 1969 Session Laws are repealed.

31 Sec. 21. Sections 1 through 7 of this act shall become effective July 1, 1989.
32 The remainder of this act is effective for taxable years beginning on or after January 1,
33 1989.