

GENERAL ASSEMBLY OF NORTH CAROLINA

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HOUSE BILL 1311
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Pensions & Retirement Senate Committee Substitute Adopted 8/8/89

Short Title: Retirement Tax Equalization.

(Public)

Sponsors:

Referred to:

April 12, 1989

A BILL TO BE ENTITLED
AN ACT TO PROVIDE INCOME TAX EXEMPTIONS FOR ALL RETIREES AND
TO INCREASE STATE AND LOCAL RETIREMENT BENEFITS.

The General Assembly of North Carolina enacts:

PART I.

RETIREMENT TAX EXEMPTIONS.

Section 1.1. G.S. 105-134.6(b), as enacted by Chapter 728 of the 1989 Session Laws, is amended by adding a new subdivision to read:

"(6) a. An amount, not to exceed four thousand dollars (\$4,000), equal to the sum of the amount calculated in subparagraph b. plus the amount calculated in subparagraph c.

b. The amount calculated in this subparagraph is the amount received during the taxable year from one or more state, local, or federal government retirement plans.

c. The amount calculated in this subparagraph is the amount received during the taxable year from one or more retirement plans other than state, local, or federal government retirement plans, not to exceed a total of two thousand dollars (\$2,000) in any taxable year.

1 Plan may be offset against any retirement allowance, return of contributions or any
2 other right accruing under this Chapter to the same person, the person's estate, or
3 designated beneficiary.”

4 Sec. 2.3. G.S. 127A-40(e) is repealed.

5 Sec. 2.4. G.S. 128-31 reads as rewritten:

6 **"§ 128-31. Exemptions from execution.**

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

20 Sec. 2.5. G.S. 135-9 reads as rewritten:

21 **"§ 135-9. Exemption from ~~taxes, garnishment, attachment, etc.~~**

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 a person to a
24 pension, or annuity, or a retirement allowance, to the return of contributions, the
25 pension, annuity or retirement allowance itself, any optional benefit or any other right
26 accrued or accruing to any person under the provisions of this Chapter, and the moneys
27 in the various funds created by this Chapter, ~~are hereby exempt from any State or municipal~~
28 ~~tax, and are~~ exempt from levy and sale, garnishment, attachment, or any other process
29 whatsoever, and shall be unassignable except as in this Chapter specifically otherwise
30 provided. Notwithstanding any provisions to the contrary, any overpayment of benefits
31 to a member in a State-administered retirement system or the former Disability Salary
32 Continuation Plan or the Disability Income Plan of North Carolina may be offset against
33 any retirement allowance, return of contributions or any other right accruing under this
34 Chapter to the same person, the person's estate, or designated beneficiary.”

35 Sec. 2.6. G.S. 135-95 reads as rewritten:

36 **"§ 135-95. Exemption from ~~taxes, garnishment, attachment.~~**

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

42 Sec. 2.7. G.S. 143-166.30(g) reads as rewritten:

43 "(g) Exemption from ~~Taxes, Garnishment and Attachment.~~ – The right of a
44 participant in the Supplemental Retirement Income Plan to the benefits provided under

1 this Article is nonforfeitable and exempt from levy, sale, ~~garnishment, and the benefits~~
2 ~~payable under this Article are hereby exempt from any State and local government taxes. and~~
3 garnishment."

4 Sec. 2.8. G.S. 143-166.60(h) reads as rewritten:

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

10 Sec. 2.9. G.S. 143-166.85(e) is repealed.

11 Sec. 2.10. G.S. 147-9.4 reads as rewritten:

12 **"§ 147-9.4. Deferred Compensation Plan.**

13 Notwithstanding the provisions of G.S. 147-62, and notwithstanding any provision
14 of law relating to salaries or salary schedules of State employees, the chief executive
15 officer of an employer, on behalf of the employer, may from time to time enter into a
16 contract with an employee under which the employee irrevocably elects to defer receipt
17 of a portion of his scheduled salary in the future, but only if, as a result of such contract,
18 the income so deferred is deferred pursuant to the Plan provided for in G.S. 143B-
19 426.24 or pursuant to some other plan established before 1 January 1983, and is not
20 constructively received by the employee in the year in which it was earned, for State
21 and federal income tax purposes. In addition, the income so deferred shall be invested
22 in the manner provided in the applicable Plan; however, the employee may revoke his
23 election to participate and may amend the amount of compensation to be deferred by
24 signing and filing with the Board a written revocation or amendment on a form and in
25 the manner approved by the Board. Any such revocation or amendment shall be
26 effective prospectively only and shall cause no change in the allocation of amounts
27 invested prior to the filing date of such revocation or amendment.

28 An employee who has agreed to the deferral of income pursuant to the Plan shall
29 have the right to receive the income so deferred only in accordance with the provisions
30 of the Plan. Funds so deferred shall not be in lieu of any amount earned by the employee
31 before his election to defer compensation became effective. The agreement to defer
32 income referred to herein shall be effective under such necessary regulations and
33 procedures as are adopted by the Board, and on forms prepared or approved by it.
34 Notwithstanding any other provisions of law, the amount by which the salary of an
35 employee is deferred pursuant to the Plan shall not be excluded, but shall be included, in
36 computing and making payroll deductions for social security and retirement system
37 purposes, if any, and in computing and providing matching funds for retirement system
38 purposes, if any.

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

1 Sec. 2.11. G.S. 161-50.5(e) is repealed.

2 Sec. 2.12. Chapter 1307 of the 1979 Session Laws and Chapter 1076 of the
3 1969 Session Laws are repealed.

4 **PART III.**

5 **RETIREMENT BENEFITS AMENDMENTS.**

6 Sec. 3.1. G.S. 135-5(b10) reads as rewritten:

7 "(b10) Service Retirement Allowance of Members Retiring on or after July 1,
8 ~~1988-1988, but before July 1, 1989.~~ – Upon retirement from service in accordance with
9 subsection (a) above, on or after July 1, 1988, but before July 1, 1989, a member shall
10 receive the following service retirement allowance:

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

14 a. If the member's service retirement date occurs on or after his
15 55th birthday, and completion of five years of creditable service
16 as a law enforcement officer, or after the completion of 30 years
17 of creditable service, the allowance shall be equal to one and
18 sixty hundredths percent (1.60%) of his average final
19 compensation, multiplied by the number of years of his
20 creditable service.

21 b. This allowance shall also be governed by the provisions of G.S.
22 135-5(b9)(1)b.

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

26 a. If the member's service retirement date occurs on or after his
27 65th birthday upon the completion of five years of creditable
28 service or after the completion of 30 years of creditable service
29 or on or after his 60th birthday upon the completion of 25 years
30 of creditable service, such allowance shall be equal to one and
31 sixty hundredths percent (1.60%) of his average final
32 compensation, multiplied by the number of years of his
33 creditable service.

34 b. This allowance shall also be governed by the provisions of G.S.
35 135-5(b9)(2)b., c. and d."

36 Sec. 3.2. G.S. 135-5 is amended by adding a new subsection to read:

37 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,
38 1989. – Upon retirement from service in accordance with subsection (a) above, on or
39 after July 1, 1989, a member shall receive the following service retirement allowance:

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

43 a. If the member's service retirement date occurs on or after his
44 55th birthday, and completion of five years of creditable service

1 as a law enforcement officer, or after the completion of 30 years
2 of creditable service, the allowance shall be equal to one and
3 sixty-three hundredths percent (1.63%) of his average final
4 compensation, multiplied by the number of years of his
5 creditable service.

6 b. This allowance shall also be governed by the provisions of G.S.
7 135-5(b9)(1)b.

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

11 a. If the member's service retirement date occurs on or after his
12 65th birthday upon the completion of five years of creditable
13 service or after the completion of 30 years of creditable service
14 or on or after his 60th birthday upon the completion of 25 years
15 of creditable service, the allowance shall be equal to one and
16 sixty-three hundredths percent (1.63%) of his average final
17 compensation, multiplied by the number of years of creditable
18 service.

19 b. This allowance shall also be governed by the provisions of G.S.
20 135-5(b9)(2)b. c. and d."

21 Sec. 3.3. G.S. 135-5 is amended by adding a new subsection to read:

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

29 Sec. 3.4. G.S. 128-27(b10) reads as rewritten:

30 "(b10) Service Retirement Allowance of Members Retiring on or after July 1,
31 1988-1988, but before July 1, 1989. – Upon retirement from service in accordance with
32 subsection (a) above, on or after July 1, 1988, but before July 1, 1989, a member shall
33 receive the following service retirement allowance:

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

37 a. If the member's service retirement date occurs on or after his
38 55th birthday, and completion of five years of creditable service
39 as a law enforcement officer, or after the completion of 30 years
40 of creditable service, the allowance shall be equal to one and
41 sixty hundredths percent (1.60%) of his average final
42 compensation, multiplied by the number of years of his
43 creditable service.

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

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

6 a. If the member's service retirement date occurs on or after his
7 65th birthday upon the completion of five years of creditable
8 service or after the completion of 30 years of creditable service,
9 or on or after his 60th birthday upon the completion of 25 years
10 of creditable service, such allowance shall be equal to one and
11 sixty-hundredths percent (1.60%) of his average final
12 compensation, multiplied by the number of years of his
13 creditable service.

14 b. Such allowance shall also be governed by the provisions of G.S.
15 128-27(b7)(2a), (2b) and (3)."

16 Sec. 3.5. G.S. 128-27 is amended by adding a new section to read:

17 "(b11) Service Retirement Allowance of Members Retiring on or after July 1,
18 1989. – Upon retirement from service in accordance with subsection (a) above, on or
19 after July 1, 1989, a member shall receive the following service retirement allowance:

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

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

30 b. This allowance shall also be governed by the provisions of G.S.
31 128-27(b8)(2).

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

35 a. If the member's service retirement date occurs on or after his
36 65th birthday upon the completion of five years of creditable
37 service or after the completion of 30 years of creditable service
38 or on or after his 60th birthday upon the completion of 25 years
39 of creditable service, the allowance shall be equal to one and
40 sixty-three hundredths percent (1.63%) of his average final
41 compensation, multiplied by the number of years of creditable
42 service.

43 b. This allowance shall also be governed by the provisions of G.S.
44 128-27(b7)(2a) and (3)."

1 Sec. 3.6. G.S. 128-27 is amended by adding a new subsection to read:
2 "(gg) Increase in Allowance as to Persons on Retirement Rolls as of June 1, 1989.
3 From and after July 1, 1989, the retirement allowance to or on account of beneficiaries
4 on the retirement rolls as of June 1, 1989, shall be increased by one and nine-tenths
5 percent (1.9%) of the allowance payable on June 1, 1989. This allowance shall be
6 calculated on the basis of the allowance payable and in effect on June 30, 1989, so as
7 not to be compounded on any other increase payable under subsection (k) of this section
8 or otherwise granted by act of the 1989 Session of the General Assembly."

9 Sec. 3.7. The State's employer contribution rate budgeted for the University
10 Employees' Optional Retirement Program is increased from eight and seventeen
11 hundredths percent (8.17%), as contained in the Expansion Budget Appropriations Act
12 of 1989, to eight and twenty-seven hundredths percent (8.27%), beginning September 1,
13 1989.

14 Sec. 3.8. It is the intention of the First Session of the 1989 General Assembly
15 that the benefit accrual rates of the Teachers' and State Employees' Retirement System
16 and the Local Governmental Employees' Retirement System be further increased as a
17 result of this act, on or after July 1, 1990, for active and retired members and
18 beneficiaries of the Systems upon the availability of unencumbered actuarial gains in
19 the Retirement Systems for the years ending on or after December 31, 1988, subsequent
20 to the application of such unencumbered actuarial gains for the provisions of G.S. 128-
21 27(k) and G.S. 135-5(o).

22 Sec. 3.9. Part III of this act shall become effective July 1, 1989. The
23 remainder of this act is effective for taxable years beginning on or after January 1, 1989.