

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 929
HOUSE BILL 31

AN ACT TO PERMIT INJURED FIREMEN TO RECEIVE DISABILITY PAYMENTS UNDER THE NORTH CAROLINA LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AFTER ONE YEAR'S SERVICE AND TO ALLOW FOR DISABILITY BENEFIT IF DEATH OCCURS PRIOR TO RETIREMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 128-27(c) reads as rewritten:

"(c) Disability Retirement Benefits. – Upon the application of a member or of his employer, any member who has had five or more years of creditable service may be retired by the Board of Trustees, on the first day of any calendar month, not less than one day nor more than 90 days next following the date of filing such application, on a disability retirement allowance: Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity was incurred at the time of active employment and has been continuous thereafter, that such incapacity is likely to be permanent, and that such member should be retired; Provided further the medical board shall determine if the member is able to engage in gainful employment and, if so, the member may still be retired and the disability retirement allowance as a result thereof shall be reduced as in subsection (e) below. Provided further, that the Medical Board shall not certify any member as disabled who:

- (1) Applies for disability retirement based upon a mental or physical incapacity which existed when the member first established membership in the system; or
- (2) Is in receipt of any payments on account of the same disability which existed when the member first established membership in the system.

The Board of Trustees shall require each employee upon enrolling in the retirement system to provide information on the membership application concerning any mental or physical incapacities existing at the time the member enrolls.

Notwithstanding the requirement of five or more years of creditable service to the contrary, a member who is a law enforcement officer or a fireman as defined in G.S. 58-86-25 or rescue squad worker as defined in G.S. 58-86-30 and who has had one year or more of creditable service and becomes incapacitated for duty as the natural and proximate result of an accident occurring while in the actual performance of duty, and meets all other requirements for disability retirement benefits, may be retired by the Board of Trustees on a disability retirement allowance.

Notwithstanding the foregoing to the contrary, any beneficiary who commenced retirement with an early or service retirement benefit has the right, within three years of his retirement, to convert to an allowance with disability retirement benefits without modification of any election of optional allowance previously made; provided, the beneficiary would have met all applicable requirements for disability retirement benefits while still in service as a member. The allowance on account of disability retirement benefits to the beneficiary shall be retroactive to the effective date of early or service retirement.

Notwithstanding the foregoing, effective April 1, 1991 the surviving designated beneficiary of a deceased member who met all other requirements for disability retirement benefits, except whose death occurred before the first day of the calendar month in which the member's disability retirement allowance was to be due and payable, may elect to receive the reduced retirement allowance provided by a one hundred percent (100%) joint and survivor payment option in lieu of a return of accumulated contributions, provided the following conditions apply:

- (1) The member had designated as the principal beneficiary, to receive a return of accumulated contributions at the time of his death, one and only one person, and
- (2) The member had not instructed the Board of Trustees in writing that he did not wish the provision of this subsection to apply.

Sec. 2. This act becomes effective April 1, 1991.

In the General Assembly read three times and ratified this the 10th day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives