

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 528

Short Title: Retirees' Guaranteed Return.

(Public)

Sponsors: Senators Harris; Smith and Carpenter.

Referred to: Pensions and Retirement.

March 23, 1993

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE THAT RETIRED MEMBERS IN RECEIPT OF A
3 RETIREMENT ALLOWANCE FROM THE STATE-ADMINISTERED
4 RETIREMENT SYSTEMS SHALL RECEIVE RETIREMENT BENEFITS
5 EQUAL TO AN AMOUNT NOT LESS THAN THE ACCUMULATED
6 CONTRIBUTIONS OF THE RETIREE AT RETIREMENT.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 120-4.26 reads as rewritten:

9 **"§ 120-4.26. Benefit payment options.**

10 Any member may elect to receive his benefits in a retirement allowance payable
11 throughout life, or he may elect to receive the actuarial equivalent of the retirement
12 allowance in a reduced allowance payable throughout life under the provisions of one of
13 the options set forth below. No election may be made after the first payment becomes
14 due, or the first retirement check cashed, nor may an election be revoked or a
15 nomination changed. The election of Option 2 or Option 3 or the nomination of the
16 person thereunder shall be revoked if the person nominated dies prior to the date the
17 first payment becomes normally due or until the first retirement check has been cashed.
18 The election may be revoked by the member prior to the date the first payment becomes
19 normally due or until his first retirement check has been cashed. Provided, however,
20 any member having elected Options 2 or 3 and nominated his or her spouse to receive a
21 retirement allowance upon the member's death may, after divorce from his or her
22 spouse, revoke the nomination and elect a new option, effective on the first day of the
23 month in which the new option is elected, providing for a retirement allowance

1 computed to be the actuarial equivalent to the retirement allowance in effect
2 immediately prior to the effective date of the new option.

3 Option 1. – For Members Retiring Prior to July 1, 1993. If a member dies within 10
4 years from his retirement date, an amount equal to his accumulated contributions at
5 retirement, less one-one hundred twentieth (1/120) for each month for which he has
6 received a retirement allowance payment, shall be paid to his legal representative or to
7 the person he nominates by written designation acknowledged and filed with the Board
8 of Trustees;

9 Option 2. – Upon his death, his reduced retirement allowance shall be continued
10 throughout the life of and paid to the person he nominates by written designation duly
11 acknowledged and filed with the Board of Trustees at the time of his retirement. If the
12 person selected is other than his spouse, the reduced retirement allowance payable to the
13 member shall not be less than one half of the retirement allowance without optional
14 modification which would otherwise be payable to him; or

15 Option 3. – Upon his death, one half of his reduced retirement allowance shall be
16 continued throughout the life of and paid to the person he nominates by written
17 designation duly acknowledged and filed with the Board of Trustees at the time of his
18 retirement."

19 Sec. 2. Article 1A of Chapter 120 of the General Statutes is amended by
20 adding a new section to read:

21 "**§ 120-4.26A. Benefits on death after retirement.**

22 In the event of the death of a retired member while in receipt of a retirement
23 allowance under the provisions of this Article, there shall be paid to such person or
24 persons as the retiree shall have nominated by written designation duly acknowledged
25 and filed with the Board of Trustees, if such person or persons are living at the time of
26 the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal
27 to the excess, if any, of the accumulated contributions of the retiree at the date of
28 retirement over the total of the retirement allowances paid prior to the death of the
29 retiree.

30 In the event that a retirement allowance becomes payable to the designated survivor
31 of a retired member under the provisions of G.S. 120-4.26 and such retirement
32 allowance to the survivor shall terminate upon the death of the survivor before the total
33 of the retirement allowances paid to the retiree and the designated survivor combined
34 equals the amount of the accumulated contributions of the retiree at the date of
35 retirement, the excess, if any, of such accumulated contributions over the total of the
36 retirement allowances paid to the retiree and the survivor combined shall be paid in a
37 lump sum to such person or persons as the retiree shall have nominated by written
38 designation duly acknowledged and filed with the Board of Trustees, if such person or
39 persons are living at the time such payment falls due, otherwise to the retiree's legal
40 representative."

41 Sec. 3. G.S. 128-27(g) reads as rewritten:

42 "(g) Election of Optional Allowance. – With the provision that until the first
43 payment on account of any benefit becomes normally due, or his first retirement check
44 has been cashed, any member may elect to receive his benefits in a retirement allowance

1 payable throughout life, or he may elect to receive the actuarial equivalent of such
2 retirement allowance in a reduced allowance payable throughout life under the
3 provisions of one of the Options set forth below. The election of Option two or Option
4 three or nomination of the person thereunder shall be revoked if such person nominated
5 dies prior to the date the first payment becomes normally due or the first retirement
6 check has been cashed. Such election may be revoked by the member prior to the date
7 the first payment becomes normally due or his first retirement check has been cashed.
8 Provided, however, any member having elected Options two, three, ~~five,~~ or six and
9 nominated his or her spouse to receive a retirement allowance upon the member's death
10 may, after divorce from his or her spouse, revoke the nomination and elect a new
11 option, effective on the first day of the month in which the new option is elected,
12 providing for a retirement allowance computed to be the actuarial equivalent of the
13 retirement allowance in effect immediately prior to the effective date of the new option.

14 Option one. (a) In the Case of a Member Who Retires prior to July 1, 1965.
15 – If he dies before he has received in annuity payments the present value of his annuity
16 as it was at the time of his retirement, the balance shall be paid to such person as he
17 shall nominate by written designation duly acknowledged and filed with the Board of
18 Trustees or, if none, to his legal representative.

19 (b) In the Case of a Member Who Retires on or after July 1, ~~1965-1965,~~
20 but prior to July 1, 1993. – If he dies within 10 years from his
21 retirement date, an amount equal to his accumulated contributions at
22 retirement, less one one-hundred-twentieth thereof for each month for
23 which he has received a retirement allowance payment, shall be paid to
24 such person as he shall nominate by written designation duly
25 acknowledged and filed with the Board of Trustees or, if none, to his
26 legal representative; or

27 Option two. Upon his death his reduced retirement allowance shall be continued
28 throughout the life of and paid to such person as he shall nominate by written
29 designation duly acknowledged and filed with the Board of Trustees at the time of his
30 retirement, provided that if the person selected is other than his spouse the reduced
31 retirement allowance payable to the member shall not be less than one half of the
32 retirement allowance without optional modification which would otherwise be payable
33 to him; or

34 Option three. Upon his death, one half of his reduced retirement allowance shall be
35 continued throughout the life of, and paid to such person as he shall nominate by written
36 designation duly acknowledged and filed with the Board of Trustees at the time of his
37 retirement; or

38 Option four. Adjustment of Retirement Allowance for Social Security Benefits. –
39 Until the first payment on account of any benefit becomes normally due, any member
40 may elect to convert his benefit otherwise payable on his account after retirement into a
41 retirement allowance of equivalent actuarial value of such amount that with his benefit
42 under Table II of the Federal Social Security Act, he will receive, so far as possible,
43 approximately the same amount per year before and after the earliest age at which he
44 becomes eligible, upon application therefor, to receive a social security benefit. A

1 ~~member who makes an election in accordance with this option shall be deemed to have made a~~
2 ~~further election of Option one above.~~

3 Option five. For Members Retiring prior to July 1, 1993. The member may elect:
4 ~~elect to (1) To receive a reduced retirement allowance under the conditions of Option~~
5 ~~two or Option three, as provided for above, with the modification that if both he and the~~
6 ~~person nominated die within 10 years from his retirement date, an amount equal to his~~
7 ~~accumulated contributions at retirement, less 1/120th thereof for each month for which~~
8 ~~a retirement allowance has been paid, shall be paid to his legal representatives or to such~~
9 ~~person as he shall nominate by written designation duly acknowledged and filed with~~
10 ~~the Board of Trustees; Trustees. or~~

11 (2) ~~To receive a reduced retirement allowance during his life with~~
12 ~~provisions for some other benefit to be paid after his death in~~
13 ~~accordance with a plan submitted to and approved by the Board of~~
14 ~~Trustees.~~

15 Option six. A member may elect either Option two or Option three with the added
16 provision that in the event the designated beneficiary predeceases the member, the
17 retirement allowance payable to the member after the designated beneficiary's death
18 shall be equal to the retirement allowance which would have been payable had the
19 member not elected the option."

20 Sec. 4. G.S.128-27 is amended by adding a new subsection to read:

21 "(g1) In the event of the death of a retired member while in receipt of a retirement
22 allowance under the provisions of this Article, there shall be paid to such person or
23 persons as the retiree shall have nominated by written designation duly acknowledged
24 and filed with the Board of Trustees, if such person or persons are living at the time of
25 the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal
26 to the excess, if any, of the accumulated contributions of the retiree at the date of
27 retirement over the total of the retirement allowances paid prior to the death of the
28 retiree.

29 In the event that a retirement allowance becomes payable to the designated survivor
30 of a retired member under the provisions above and such retirement allowance to the
31 survivor shall terminate upon the death of the survivor before the total of the retirement
32 allowances paid to the retiree and the designated survivor combined equals the amount
33 of the accumulated contributions of the retiree at the date of retirement, the excess, if
34 any, of such accumulated contributions over the total of the retirement allowances paid
35 to the retiree and the survivor combined shall be paid in a lump sum to such person or
36 persons as the retiree shall have nominated by written designation duly acknowledged
37 and filed with the Board of Trustees, if such person or persons are living at the time
38 such payment falls due, otherwise to the retiree's legal representative."

39 Sec. 5. G.S. 135-5(g) reads as rewritten:

40 "(g) Election of Optional Allowance. – With the provision that until the first
41 payment on account of any benefit becomes normally due, or his first retirement check
42 has been cashed, any member may elect to receive his benefits in a retirement allowance
43 payable throughout life, or he may elect to receive the actuarial equivalent of such
44 retirement allowance in a reduced allowance payable throughout life under the

1 provisions of one of the options set forth below. The election of Option 2 or Option 3
2 or nomination of the person thereunder shall be revoked if such person nominated dies
3 prior to the date the first payment becomes normally due or until the first retirement
4 check has been cashed. Such election may be revoked by the member prior to the date
5 the first payment becomes normally due or until his first retirement check has been
6 cashed. Provided, however, any member having elected Options 2, 3, ~~5~~ or 6 and
7 nominated his or her spouse to receive a retirement allowance upon the member's death
8 may, after divorce from his or her spouse, revoke the nomination and elect a new
9 option, effective on the first day of the month in which the new option is elected,
10 providing for a retirement allowance computed to be the actuarial equivalent of the
11 retirement allowance in effect immediately prior to the effective date of the new option.

12 Option 1. (a) In the Case of a Member Who Retires prior to July 1, 1963. – If
13 he dies before he has received in annuity payments the present value
14 of his annuity as it was at the time of his retirement, the balance shall
15 be paid to his legal representatives or to such person as he shall
16 nominate by written designation duly acknowledged and filed with
17 the Board of Trustees.

18 (b) In the Case of a Member Who Retires on or after July 1,
19 ~~1963-1963~~, but prior to July 1, 1993. – If he dies within 10 years
20 from his retirement date, an amount equal to his accumulated
21 contributions at retirement, less 1/120 thereof for each month for
22 which he has received a retirement allowance payment, shall be paid
23 to his legal representatives or to such person as he shall nominate by
24 written designation duly acknowledged and filed with the Board of
25 Trustees; or

26 Option 2. Upon his death his reduced retirement allowance shall be continued
27 throughout the life of and paid to such person as he shall nominate by written
28 designation duly acknowledged and filed with the Board of Trustees at the time of his
29 retirement, provided that if the person selected is other than his spouse the reduced
30 retirement allowance payable to the member shall not be less than one half of the
31 retirement allowance without optional modification which would otherwise be payable
32 to him; or

33 Option 3. Upon his death, one half of his reduced retirement allowance shall be
34 continued throughout the life of, and paid to such person as he shall nominate by written
35 designation duly acknowledged and filed with the Board of Trustees at the time of his
36 retirement; or

37 Option 4. Adjustment of Retirement Allowance for Social Security Benefits. – Until
38 the first payment on account of any benefit becomes normally due, any member may
39 elect to convert his benefit otherwise payable on his account after retirement into a
40 retirement allowance of equivalent actuarial value of such amount that with his benefit
41 under Title II of the Federal Social Security Act, he will receive, so far as possible,
42 approximately the same amount per year before and after the earliest age at which he
43 becomes eligible, upon application therefor, to receive a social security benefit. A

1 ~~member who makes an election in accordance with this option shall be deemed to have made a~~
2 ~~further election of Option 1 above.~~

3 Option 5. ~~For Members Retiring prior to July 1, 1993.~~ The member may ~~elect~~ elect
4 to (1) ~~To receive a reduced retirement allowance under the conditions of Option 2 or~~
5 Option 3, as provided for above, with the modification that if both he and the person
6 nominated die within 10 years from his retirement date, an amount equal to his
7 accumulated contributions at retirement, less 1/120 thereof for each month for which a
8 retirement allowance has been paid, shall be paid to his legal representatives or to such
9 person as he shall nominate by written designation duly acknowledged and filed with
10 the Board of ~~Trustees; Trustees.~~ or

11 (2) ~~To receive a reduced retirement allowance during his life with~~
12 ~~provision for some other benefit to be paid after his death in~~
13 ~~accordance with a plan submitted to and approved by the Board of~~
14 ~~Trustees.~~

15 Option 6. A member may elect either Option 2 or Option 3 with the added provision
16 that in the event the designated beneficiary predeceases the member, the retirement
17 allowance payable to the member after the designated beneficiary's death shall be equal
18 to the retirement allowance which would have been payable had the member not elected
19 the option."

20 Sec. 6. G.S. 135-5 is amended by adding a new subsection to read:

21 "(g1) In the event of the death of a retired member while in receipt of a retirement
22 allowance under the provisions of this Article, there shall be paid to such person or
23 persons as the retiree shall have nominated by written designation duly acknowledged
24 and filed with the Board of Trustees, if such person or persons are living at the time of
25 the retiree's death, otherwise to the retiree's legal representatives, a death benefit equal
26 to the excess, if any, of the accumulated contributions of the retiree at the date of
27 retirement over the total of the retirement allowances paid prior to the death of the
28 retiree.

29 In the event that a retirement allowance becomes payable to the designated survivor
30 of a retired member under the provisions above and such retirement allowance to the
31 survivor shall terminate upon the death of the survivor before the total of the retirement
32 allowances paid to the retiree and the designated survivor combined equals the amount
33 of the accumulated contributions of the retiree at the date of retirement, the excess, if
34 any, of such accumulated contributions over the total of the retirement allowances paid
35 to the retiree and the survivor combined shall be paid in a lump sum to such person or
36 persons as the retiree shall have nominated by written designation duly acknowledged
37 and filed with the Board of Trustees, if such person or persons are living at the time
38 such payment falls due, otherwise to the retiree's legal representative."

39 Sec. 7. In order to fund the provisions of this act, the Boards of Trustees of
40 the Teachers' and State Employees' Retirement System, the Local Governmental
41 Employees' Retirement System, and the Legislative Retirement System, with the advice
42 of the consulting actuary, shall apply unencumbered actuarial gain remaining after the
43 application of this gain to cost-of-living increases for retired members and any other
44 increases in retirement benefits contained in the 1993-94 Current Operations

1 Appropriations Act, and shall allocate the percentage of payroll contributions to the
2 Retirement System without an increase in the total employer contribution rate and
3 without an increase in the scheduled amortization period for liquidation of unfunded
4 accrued liabilities in the Retirement Systems.

5 Sec. 8. This act becomes effective July 1, 1993.