



SENATE BILL 886: Retirement Amendments.

2015-2016 General Assembly

Committee:		Date:	August 4, 2016
Introduced by:		Prepared by:	Theresa Matula Legislative Analyst
Analysis of:	S.L. 2016-108		

OVERVIEW: *S.L. 2016-108 does the following:*

- *Honors firefighter Captain Bradley Long, who was killed in the line of duty.*
- *Adds language providing survivorship benefits for a member killed in the line of duty for the NC Firefighters' and Rescue Squad Workers' Pension Fund (FRSWPF).*
- *Clarifies the retirement information that is subject to the Public Records Law.*
- *Allows certain forms to be transmitted electronically to Teachers' and State Employees' Retirement System (TSERS) members and Local Governmental Employees' Retirement System (LGERS) members.*
- *Allows letters of credit issued by a Federal Home Loan Bank to be used to collateralize deposits.*
- *Requires the LGERS Board of Trustees to develop a State Contribution Rate Stabilization Policy for the FRSWPF.*
- *Amends the law pertaining to the Retirement System for Teachers and State Employees to: (i) add the Director of the Office of State Human Resources as an ex officio member of the TSERS Board of Trustees, replacing a representative of higher education; (ii) provide for the TSERS and LGERS that the State Treasurer is the ex officio chair of the Board and has authority to appoint the director of the Retirement System; and (iii) require the annual valuation to TSERS and LGERS Board to include a section providing an analysis of assets on a market basis using the 30- year treasury rate as the discount rate.*
- *Makes references to the Supplemental Retirement Board of Trustees consistent across statutes and provides that the 403(b) uses the same procurement procedures as the 401(k) and 457 plans; and amends the reporting of earnings requirements under the Disability Income Plan.*

This act became effective July 22, 2016, except for the provision that pertains to the survivorship benefits for a FRSWPF member killed in the line of duty. The aforementioned provision has various effective dates. Please see the full summary for more detail.

BILL ANALYSIS:

Section 1 amends the NC Firefighters' and Rescue Squad Workers' Pension Fund providing survivorship benefits for a member killed in the line of duty. The section allows beneficiaries to receive the same benefit the deceased member would have received beginning when the deceased member would have reached the age of 55. Section 1(a) provides that, "killed in the line of duty" has the same

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meaning as in the Law-Enforcement Officers', Firemen's, Rescue Squad Workers' and Civil Air Patrol Members' Death Benefits Act. Section 1(b) adds G.S. 58-86-55 to outline the manner in which benefits are paid to a beneficiary when a member is killed in the line of duty. Section 1(c) amends the law pertaining to order of payments when a firefighter or rescue squad worker dies, but is not killed in the line of duty. Section 1(d) provides a two-year transition period prior to Section 1(b) which allows the member's spouse to receive a benefit. Section 1(a) and 1(d) become effective June 1, 2016 and apply to benefits paid when a member is killed in the line of duty on or after June 1, 2016, but before July 1, 2018. Section 1(b) and 1(c) become effective July 1, 2018 and apply to benefits paid when a member is killed in the line of duty on or after that date.

Section 2 clarifies the retirement information is subject to the Public Records Law. Section 2(a) provides background on an Attorney General's Advisory Opinion of February 5, 2008, that concluded information about retirement benefits was intended to be a record maintained for public inspection and that Department of the State Treasurer should make the information available for public inspection. The remainder of Section 2 creates and consolidates the laws pertaining to public records for the TSERS and LGERS.

Section 2(b) adds a new section, G.S. 135-6.1, to Article 1 of Chapter 135 for the TSERS pertaining to confidentiality of member information. Various elements of the newly created G.S. 135-6.1 are as follows: Subsection (a) defines employment-related information, personal information, retirement file and retirement-related information. Subsection (b) provides that member retirement files are not subject to public inspection and examination, except to notify members and beneficiaries of their rights to and accruals of benefits and as stated in subsections (c), (d), and (e) below. Subsection (c) provides that following member information is public: name; age; the dates of membership in the retirement system, the dates of first service, enrollment and employment, and the date of retirement; the terms of any contract by which a member was employed; job title; compensation; changes in employment; current assignment; record of benefits paid; and purchases of educational leave. Subsection (d) requires custodians of retirement file information to permit inspection and examination of that information by the public during regular business hours. Any person denied access to retirement file information may seek appropriate relief in a court of competent jurisdiction. Subsection (e) allows the Retirement Systems Division to disclose the names and mailing addresses of former State employees, former public school employees, or former community college employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees. Subsection (f) states any retirement file information not specified in subsection (c) is confidential and not open for inspection except by the member, the member's authorized agent, a member of the General Assembly under authority of G.S. 120-19, and an individual with a proper court order authorizing inspection. Subsection (g) makes it a Class 3 misdemeanor, punishable by a fine no greater than \$500, for a public official or employee to knowingly and willfully permit an unauthorized person to have access, custody, or possession of confidential information in a retirement file. Subsection (h) makes it a Class 3 misdemeanor, punishable by a fine no greater than \$500, for any person not authorized to have access to confidential retirement file information to knowingly and willfully examine, remove, or copy any portion of a confidential retirement file.

Section 2(c) adds a new section to Article 3 of Chapter 128 of the General Statutes pertaining to LGERS. The content is similar to that contained in Section 2(b) for TSERS.

Section 2(d) makes a conforming change to G.S. 126-22 which pertains to personnel files not subject to inspection under the public records law (G.S. 132-6).

Sections 2(e)-(h) repeal statutes authorizing disclosure of the names and mailing addresses of former public school employees, former community college employees, and former state and local government

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employees to domiciled, nonprofit organizations representing 10,000 or more retired State government, local government, or public school employees because similar provisions are found in Sections 2(b) and 2(c) of the bill.

Section 3 allows certain forms to be transmitted electronically to Teachers' and State Employees' Retirement System (TSERS) members and Local Governmental Employees' Retirement System (LGERS) members. The Section amends G.S. 135-10.1 and 128-32.1 to require members in TSERS and LGERS, respectively, to respond within 120 days of "transmission" of Form 6-E or Form 7-E to them. Under current law, the Forms must be mailed to members. The change allows electronic transmission.

Section 4 allows letters of credit issued by a Federal Home Loan Bank to be used to collateralize deposits by amending G.S. 147-79. According to the Retirement Systems Division, State Banking System staff discovered this change is necessary to avoid re-collateralizing \$1.8 billion in funds in the state banking system.

Section 5 requires the LGERS Board of Trustees to develop a State Contribution Rate Stabilization Policy for the NC Firefighters' and Rescue Squad Workers' Pension Fund and to report to the Office of State Budget and Management and the Fiscal Research Division on or before March 1, 2017.

Section 6 amends the membership of the TSERS and LGERS Boards of Trustees and requires the annual valuation to include additional information. Section 6(a) amends the Board of Trustees for the TSERS to add the Director of the Office of State Human Resources as an ex officio member and to remove a representative of higher education. Section 6(b) amends G.S. 135-6(g) to provide that the State Treasurer appoints the director of the Retirement Systems Division. Section 6(d) amends G.S. 128-28(h) pertaining to the LGERS Board of Trustees to provide that the State Treasurer is an ex officio chair and appoints the director. Sections 6(c) and 6(e) requires the annual valuation to the TSERS Board and LGERS Board to include a supplementary section that provides an analysis of assets on a market basis using the 30 year treasury rate as of December 31 of the year of the valuation as the discount rate.

Section 7 makes references to the Supplemental Retirement Board of Trustees consistent across statutes and provides that the 403(b) uses the same procurement procedures as the 401(k) and 457 plans.

Section 8 amends G.S. 135-109 pertaining to the reporting of earnings requirements under the Disability Income Plan. The change allows gives the Department of State Treasurer and Board of Trustees flexibility to require a statement of income by disability recipients only when the information would be useful.

Section 9 contains a severability clause.

EFFECTIVE DATE: Except as otherwise specified, the act became effective July 22, 2016.