

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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HOUSE BILL 151*

Short Title: Law Officers' 25-Year Retirement. (Public)

Sponsors: Representatives Moore, Michaux (Primary Sponsors); and Eddins.

Referred to: Pensions and Retirement, if favorable, Appropriations.

March 3, 2003

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS
2 OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR
3 THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO
4 RETIRE WITH UNREDUCED BENEFITS AFTER COMPLETING
5 TWENTY-FIVE YEARS OF SERVICE.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-5(b19) reads as rewritten:

9 "~~(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2002-~~
10 2002, but Before July 1, 2003. – Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2003, a member
12 shall 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 eighty-two hundredths percent (1.82%) of his average final
21 compensation, multiplied by the number of years of his
22 creditable service.

23 b. If the member's service retirement date occurs on or after his
24 50th birthday and before his 55th birthday with 15 or more
25 years of creditable service as a law enforcement officer and
26 prior to the completion of 30 years of creditable service, his
27 retirement allowance shall be equal to the greater of:

28 1. The service retirement allowance payable under G.S.
29 135-5(b19)(1)a. reduced by one-third of one percent (1/3

- 1 of 1%) thereof for each month by which his retirement
2 date precedes the first day of the month coincident with
3 or next following the month the member would have
4 attained his 55th birthday; or
- 5 2. The service retirement allowance as computed under
6 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times
7 the difference between 30 years and his creditable
8 service at retirement.
- 9 (2) A member who is not a law enforcement officer or an eligible former
10 law enforcement officer shall receive a service retirement allowance
11 computed as follows:
- 12 a. If the member's service retirement date occurs on or after his
13 65th birthday upon the completion of five years of membership
14 service or after the completion of 30 years of creditable service
15 or on or after his 60th birthday upon the completion of 25 years
16 of creditable service, the allowance shall be equal to one and
17 eighty-two hundredths percent (1.82%) of his average final
18 compensation, multiplied by the number of years of creditable
19 service.
- 20 b. If the member's service retirement date occurs after his 60th
21 birthday and before his 65th birthday and prior to his
22 completion of 25 years or more of creditable service, his
23 retirement allowance shall be computed as in G.S.
24 135-5(b19)(2)a. but shall be reduced by one-quarter of one
25 percent (1/4 of 1%) thereof for each month by which his
26 retirement date precedes the first day of the month coincident
27 with or next following his 65th birthday.
- 28 c. If the member's early service retirement date occurs on or after
29 his 50th birthday and before his 60th birthday and after
30 completion of 20 years of creditable service but prior to the
31 completion of 30 years of creditable service, his early service
32 retirement allowance shall be equal to the greater of:
- 33 1. The service retirement allowance as computed under
34 G.S. 135-5(b19)(2)a. but reduced by the sum of
35 five-twelfths of one percent (5/12 of 1%) thereof for
36 each month by which his retirement date precedes the
37 first day of the month coincident with or next following
38 the month the member would have attained his 60th
39 birthday, plus one-quarter of one percent (1/4 of 1%)
40 thereof for each month by which his 60th birthday
41 precedes the first day of the month coincident with or
42 next following his 65th birthday; or
- 43 2. The service retirement allowance as computed under
44 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times

- 1 the difference between 30 years and his creditable
2 service at retirement; or
- 3 3. If the member's creditable service commenced prior to
4 July 1, 1994, the service retirement allowance equal to
5 the actuarial equivalent of the allowance payable at the
6 age of 60 years as computed in G.S. 135-5(b19)b.
- 7 d. Notwithstanding the foregoing provisions, any member whose
8 creditable service commenced prior to July 1, 1963, shall not
9 receive less than the benefit provided by G.S. 135-5(b)."

10 **SECTION 2.** G.S. 135-5 is amended by adding a new subsection to read:

11 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2003.
12 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
13 after July 1, 2003, a member shall receive the following service retirement allowance:

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

17 a. If the member's service retirement date occurs on or after his
18 55th birthday, and completion of five years of creditable service
19 as a law enforcement officer, or after the completion of 25 years
20 of creditable service, the allowance shall be equal to one and
21 eighty-two hundredths percent (1.82%) of his average final
22 compensation, multiplied by the number of years of his
23 creditable service.

24 b. If the member's service retirement date occurs on or after his
25 50th birthday and before his 55th birthday with 15 or more
26 years of creditable service as a law enforcement officer and
27 prior to the completion of 25 years of creditable service, his
28 retirement allowance shall be equal to the greater of:

29 1. The service retirement allowance payable under G.S.
30 135-5(b20)(1)a. reduced by one-third of one percent (1/3
31 of 1%) thereof for each month by which his retirement
32 date precedes the first day of the month coincident with
33 or next following the month the member would have
34 attained his 55th birthday; or

35 2. The service retirement allowance as computed under
36 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times
37 the difference between 25 years and his creditable
38 service at retirement.

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

42 a. If the member's service retirement date occurs on or after his
43 65th birthday upon the completion of five years of membership
44 service or after the completion of 30 years of creditable service

1 or on or after his 60th birthday upon the completion of 25 years
2 of creditable service, the allowance shall be equal to one and
3 eighty-two hundredths percent (1.82%) of his average final
4 compensation, multiplied by the number of years of creditable
5 service.

6 b. If the member's service retirement date occurs after his 60th
7 birthday and before his 65th birthday and prior to his
8 completion of 25 years or more of creditable service, his
9 retirement allowance shall be computed as in G.S.
10 135-5(b20)(2)a. but shall be reduced by one-quarter of one
11 percent (1/4 of 1%) thereof for each month by which his
12 retirement date precedes the first day of the month coincident
13 with or next following his 65th birthday.

14 c. If the member's early service retirement date occurs on or after
15 his 50th birthday and before his 60th birthday and after
16 completion of 20 years of creditable service but prior to the
17 completion of 30 years of creditable service, his early service
18 retirement allowance shall be equal to the greater of:

19 1. The service retirement allowance as computed under
20 G.S. 135-5(b20)(2)a. but reduced by the sum of
21 five-twelfths of one percent (5/12 of 1%) thereof for
22 each month by which his retirement date precedes the
23 first day of the month coincident with or next following
24 the month the member would have attained his 60th
25 birthday, plus one-quarter of one percent (1/4 of 1%)
26 thereof for each month by which his 60th birthday
27 precedes the first day of the month coincident with or
28 next following his 65th birthday; or

29 2. The service retirement allowance as computed under
30 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
31 the difference between 30 years and his creditable
32 service at retirement; or

33 3. If the member's creditable service commenced prior to
34 July 1, 1994, the service retirement allowance equal to
35 the actuarial equivalent of the allowance payable at the
36 age of 60 years as computed in G.S. 135-5(b20)b.

37 d. Notwithstanding the foregoing provisions, any member whose
38 creditable service commenced prior to July 1, 1963, shall not
39 receive less than the benefit provided by G.S. 135-5(b)."

40 **SECTION 3.** G.S. 135-5(m) reads as rewritten:

41 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
42 principal beneficiary designated to receive a return of accumulated contributions shall
43 have the right to elect to receive in lieu thereof the reduced retirement allowance
44 provided by Option 2 of subsection (g) above computed by assuming that the member

1 had retired on the first day of the month following the date of his death, provided that
2 the following conditions apply:

- 3 (1) a. The member had attained such age and/or creditable service to
4 be eligible to commence retirement with an early or service
5 retirement allowance, or
6 b. The member had obtained 20 years of creditable service in
7 which case the retirement allowance shall be computed in
8 accordance with ~~G.S. 135-5(b19)(1)b.~~ G.S. 135-5(b20)(1)b. or
9 ~~G.S. 135-5(b19)(2)e.,~~ G.S. 135-5(b20)(2)c., notwithstanding the
10 requirement of obtaining age 50.
11 (2) The member had designated as the principal beneficiary to receive a
12 return of his accumulated contributions one and only one person who
13 was living at the time of his death.
14 (3) The member had not instructed the Board of Trustees in writing that he
15 did not wish the provisions of this subsection to apply.

16 For the purpose of this benefit, a member is considered to be in service at the date of
17 his death if his death occurs within 180 days from the last day of his actual service. The
18 last day of actual service shall be determined as provided in subsection (1) of this
19 section. Upon the death of a member in service, the surviving spouse may make all
20 purchases for creditable service as provided for under this Chapter for which the
21 member had made application in writing prior to the date of death, provided that the
22 date of death occurred prior to or within 60 days after notification of the cost to make
23 the purchase. The term "in service" as used in this subsection includes a member in
24 receipt of a benefit under the Disability Income Plan as provided in Article 6 of this
25 Chapter."

26 **SECTION 4.** G.S. 128-27(b20) reads as rewritten:

27 "(b20) Service Retirement Allowance of Member Retiring on or After July 1, ~~2002.~~
28 2002, but Before July 1, 2003. – Upon retirement from service in accordance with
29 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2003, a member
30 shall receive the following service retirement allowance:

- 31 (1) A member who is a law enforcement officer or an eligible former law
32 enforcement officer shall receive a service retirement allowance
33 computed as follows:
34 a. If the member's service retirement date occurs on or after his
35 55th birthday and completion of five years of creditable service
36 as a law enforcement officer, or after the completion of 30 years
37 of creditable service, the allowance shall be equal to one and
38 eighty-two hundredths percent (1.82%) of his average final
39 compensation, multiplied by the number of years of his
40 creditable service.
41 b. If the member's service retirement date occurs on or after his
42 50th birthday and before his 55th birthday with 15 or more
43 years of creditable service as a law enforcement officer and

1 prior to the completion of 30 years of creditable service, his
2 retirement allowance shall be equal to the greater of:

- 3 1. The service retirement allowance payable under G.S.
4 128-27(b20)(1)a. reduced by one-third of one percent
5 (1/3 of 1%) thereof for each month by which his
6 retirement date precedes the first day of the month
7 coincident with or next following the month the member
8 would have attained his 55th birthday;
- 9 2. The service retirement allowance as computed under
10 G.S. 128-27(b20)(1)a. reduced by five percent (5%)
11 times the difference between 30 years and his creditable
12 service at retirement.

13 (2) A member who is not a law enforcement officer or an eligible former
14 law 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 65th birthday upon the completion of five years of creditable
18 service or after the completion of 30 years of creditable service
19 or on or after his 60th birthday upon the completion of 25 years
20 of creditable service, the allowance shall be equal to one and
21 eighty-two hundredths percent (1.82%) of average final
22 compensation, multiplied by the number of years of creditable
23 service.
- 24 b. If the member's service retirement date occurs after his 60th
25 birthday and before his 65th birthday and prior to his
26 completion of 25 years or more of creditable service, his
27 retirement allowance shall be computed as in G.S.
28 128-27(b20)(2)a. but shall be reduced by one-quarter of one
29 percent (1/4 of 1%) thereof for each month by which his
30 retirement date precedes the first day of the month coincident
31 with or next following his 65th birthday.
- 32 c. If the member's early service retirement date occurs on or after
33 his 50th birthday and before his 60th birthday and after
34 completion of 20 years of creditable service but prior to the
35 completion of 30 years of creditable service, his early service
36 retirement allowance shall be equal to the greater of:
 - 37 1. The service retirement allowance as computed under
38 G.S. 128-27(b20)(2)a. but reduced by the sum of
39 five-twelfths of one percent (5/12 of 1%) thereof for
40 each month by which his retirement date precedes the
41 first day of the month coincident with or next following
42 the month the member would have attained his 60th
43 birthday, plus one-quarter of one percent (1/4 of 1%)
44 thereof for each month by which his 60th birthday

- 1 precedes the first day of the month coincident with or
2 next following his 65th birthday; or
- 3 2. The service retirement allowance as computed under
4 G.S. 128-27(b20)(2)a. reduced by five percent (5%)
5 times the difference between 30 years and his creditable
6 service at retirement; or
- 7 3. If the member's creditable service commenced prior to
8 July 1, 1995, the service retirement allowance equal to
9 the actuarial equivalent of the allowance payable at the
10 age of 60 years as computed in G.S. 128-27(b20)(2)b.
- 11 d. Notwithstanding the foregoing provisions, any member whose
12 creditable service commenced prior to July 1, 1965, shall not
13 receive less than the benefit provided by G.S. 128-27(b)."

14 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

15 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003.
16 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
17 after July 1, 2003, 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 25 years
24 of creditable service, the allowance shall be equal to one and
25 eighty-two hundredths percent (1.82%) of his average final
26 compensation, multiplied by the number of years of his
27 creditable service.

28 b. If the member's service retirement date occurs on or after his
29 50th birthday and before his 55th birthday with 15 or more
30 years of creditable service as a law enforcement officer and
31 prior to the completion of 25 years of creditable service, his
32 retirement allowance shall be equal to the greater of:

33 1. The service retirement allowance payable under G.S.
34 128-27(b21)(1)a. reduced by one-third of one percent
35 (1/3 of 1%) thereof for each month by which his
36 retirement date precedes the first day of the month
37 coincident with or next following the month the member
38 would have attained his 55th birthday;

39 2. The service retirement allowance as computed under
40 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
41 times the difference between 25 years and his creditable
42 service at retirement.

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, the allowance shall be equal to one and
9 eighty-two hundredths percent (1.82%) of average final
10 compensation, multiplied by the number of years of creditable
11 service.

12 b. If the member's service retirement date occurs after his 60th
13 birthday and before his 65th birthday and prior to his
14 completion of 25 years or more of creditable service, his
15 retirement allowance shall be computed as in G.S.
16 128-27(b21)(2)a. but shall be reduced by one-quarter of one
17 percent (1/4 of 1%) thereof for each month by which his
18 retirement date precedes the first day of the month coincident
19 with or next following his 65th birthday.

20 c. If the member's early service retirement date occurs on or after
21 his 50th birthday and before his 60th birthday and after
22 completion of 20 years of creditable service but prior to the
23 completion of 30 years of creditable service, his early service
24 retirement allowance shall be equal to the greater of:

25 1. The service retirement allowance as computed under
26 G.S. 128-27(b21)(2)a. but reduced by the sum of
27 five-twelfths of one percent (5/12 of 1%) thereof for
28 each month by which his retirement date precedes the
29 first day of the month coincident with or next following
30 the month the member would have attained his 60th
31 birthday, plus one-quarter of one percent (1/4 of 1%)
32 thereof for each month by which his 60th birthday
33 precedes the first day of the month coincident with or
34 next following his 65th birthday; or

35 2. The service retirement allowance as computed under
36 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
37 times the difference between 30 years and his creditable
38 service at retirement; or

39 3. If the member's creditable service commenced prior to
40 July 1, 1995, the service retirement allowance equal to
41 the actuarial equivalent of the allowance payable at the
42 age of 60 years as computed in G.S. 128-27(b21)(2)b.

1 d. Notwithstanding the foregoing provisions, any member whose
2 creditable service commenced prior to July 1, 1965, shall not
3 receive less than the benefit provided by G.S. 128-27(b)."

4 **SECTION 6.** G.S. 128-27(m) reads as rewritten:

5 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
6 principal beneficiary designated to receive a return of accumulated contributions shall
7 have the right to elect to receive in lieu thereof the reduced retirement allowance
8 provided by Option two of subsection (g) above computed by assuming that the member
9 had retired on the first day of the month following the date of his death, provided that all
10 three of the following conditions apply:

- 11 (1) a. The member had attained such age and/or creditable service to
12 be eligible to commence retirement with an early or service
13 retirement allowance, or
14 b. The member had obtained 20 years of creditable service in
15 which case the retirement allowance shall be computed in
16 accordance with ~~G.S. 128-27(b20)(1)b.~~ G.S. 128-27(b21)(1)b.
17 or ~~G.S. 128-27(b20)(2)c.,~~ G.S. 128-27(b21)(2)c.,
18 notwithstanding the requirement of obtaining age 50.
19 (2) The member had designated as the principal beneficiary to receive a
20 return of his accumulated contributions one and only one person who
21 is living at the time of his death.
22 (3) The member had not instructed the Board of Trustees in writing that he
23 did not wish the provisions of this subsection apply.

24 For the purpose of this benefit, a member is considered to be in service at the date of
25 his death if his death occurs within 180 days from the last day of his actual service. The
26 last day of actual service shall be determined as provided in subsection (l) of this
27 section. Upon the death of a member in service, the surviving spouse may make all
28 purchases for creditable service as provided for under this Chapter for which the
29 member had made application in writing prior to the date of death, provided that the
30 date of death occurred prior to or within 60 days after notification of the cost to make
31 the purchase."

32 **SECTION 7.** G.S. 143-166.41(a) reads as rewritten:

33 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
34 officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State
35 department, agency, or institution who qualifies under this section shall receive,
36 beginning on the last day of the month in which he retires on a basic service retirement
37 under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation
38 allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of
39 the base rate of compensation most recently applicable to him for each year of
40 creditable service. The allowance shall be paid in 12 equal installments on the last day
41 of each month. To qualify for the allowance the officer shall:

- 42 (1) Have (i) completed ~~30-25~~ or more years of creditable service or, (ii)
43 have attained 55 years of age and completed five or more years of
44 creditable service; and

- 1 (2) Not have attained 62 years of age; and
2 (3) Have completed at least five years of continuous service as a law
3 enforcement officer as herein defined immediately preceding a service
4 retirement. Any break in the continuous service required by this
5 subsection because of disability retirement or disability salary
6 continuation benefits shall not adversely affect an officer's
7 qualification to receive the allowance, provided the officer returns to
8 service within 45 days after the disability benefits cease and is
9 otherwise qualified to receive the allowance."

10 **SECTION 8.** This act becomes effective July 1, 2003.