

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 149*

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

Sponsors: Senators Thomas; Apodaca, Berger of Franklin, Berger of Rockingham, Boseman, Hoyle, Snow, Stevens, Swindell, and Weinstein.

Referred to: Pensions & Retirement and Aging.

February 16, 2005

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, 2005. – Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2005, 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:

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

1 2. The service retirement allowance as computed under
2 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times
3 the difference between 30 years and his creditable
4 service at retirement; or

5 3. If the member's creditable service commenced prior to
6 July 1, 1994, the service retirement allowance equal to
7 the actuarial equivalent of the allowance payable at the
8 age of 60 years as computed in G.S. 135-5(b19)(2)b.

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

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

13 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2005.
14 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
15 after July 1, 2005, a member shall receive the following service retirement allowance:

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

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

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

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

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

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

- 1 a. If the member's service retirement date occurs on or after his
2 65th birthday upon the completion of five years of membership
3 service or after the completion of 30 years of creditable service
4 or on or after his 60th birthday upon the completion of 25 years
5 of creditable service, the allowance shall be equal to one and
6 eighty-two hundredths percent (1.82%) of his average final
7 compensation, multiplied by the number of years of creditable
8 service.
- 9 b. If the member's service retirement date occurs after his 60th
10 birthday and before his 65th birthday and prior to his
11 completion of 25 years or more of creditable service, his
12 retirement allowance shall be computed as in
13 G.S. 135-5(b20)(2)a. but shall be reduced by one-quarter of one
14 percent (1/4 of 1%) thereof for each month by which his
15 retirement date precedes the first day of the month coincident
16 with or next following his 65th birthday.
- 17 c. If the member's early service retirement date occurs on or after
18 his 50th birthday and before his 60th birthday and after
19 completion of 20 years of creditable service but prior to the
20 completion of 30 years of creditable service, his early service
21 retirement allowance shall be equal to the greater of:
- 22 1. The service retirement allowance as computed under
23 G.S. 135-5(b20)(2)a. but reduced by the sum of
24 five-twelfths of one percent (5/12 of 1%) thereof for
25 each month by which his retirement date precedes the
26 first day of the month coincident with or next following
27 the month the member would have attained his 60th
28 birthday, plus one-quarter of one percent (1/4 of 1%)
29 thereof for each month by which his 60th birthday
30 precedes the first day of the month coincident with or
31 next following his 65th birthday; or
- 32 2. The service retirement allowance as computed under
33 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
34 the difference between 30 years and his creditable
35 service at retirement; or
- 36 3. If the member's creditable service commenced prior to
37 July 1, 1994, the service retirement allowance equal to
38 the actuarial equivalent of the allowance payable at the
39 age of 60 years as computed in G.S. 135-5(b20)(2)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1963, shall not
42 receive less than the benefit provided by G.S. 135-5(b)."

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

1 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
2 principal beneficiary designated to receive a return of accumulated contributions shall
3 have the right to elect to receive in lieu thereof the reduced retirement allowance
4 provided by Option 2 of subsection (g) above computed by assuming that the member
5 had retired on the first day of the month following the date of his death, provided that
6 the following conditions apply:

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

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

32 **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

33 "~~(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003-~~
34 ~~2004, but Before July 1, 2005.~~ – Upon retirement from service in accordance with
35 subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2005, a member
36 shall receive the following service retirement allowance:

- 37 (1) A member who is a law enforcement officer or an eligible former law
38 enforcement officer shall receive a service retirement allowance
39 computed as follows:
40 a. If the member's service retirement date occurs on or after his
41 55th birthday and completion of five years of creditable service
42 as a law enforcement officer, or after the completion of 30 years
43 of creditable service, the allowance shall be equal to one and
44 eighty-five hundredths percent (1.85%) of his average final

- 1 compensation, multiplied by the number of years of his
2 creditable service.
- 3 b. If the member's service retirement date occurs on or after his
4 50th birthday and before his 55th birthday with 15 or more
5 years of creditable service as a law enforcement officer and
6 prior to the completion of 30 years of creditable service, his
7 retirement allowance shall be equal to the greater of:
- 8 1. The service retirement allowance payable under
9 G.S. 128-27(b21)(1)a. reduced by one-third of one
10 percent ($1/3$ of 1%) thereof for each month by which his
11 retirement date precedes the first day of the month
12 coincident with or next following the month the member
13 would have attained his 55th birthday;
- 14 2. The service retirement allowance as computed under
15 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
16 times the difference between 30 years and his creditable
17 service at retirement.
- 18 (2) A member who is not a law enforcement officer or an eligible former
19 law 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 65th birthday upon the completion of five years of creditable
23 service or after the completion of 30 years of creditable service
24 or on or after his 60th birthday upon the completion of 25 years
25 of creditable service, the allowance shall be equal to one and
26 eighty-five hundredths percent (1.85%) of average final
27 compensation, multiplied by the number of years of creditable
28 service.
- 29 b. If the member's service retirement date occurs after his 60th
30 birthday and before his 65th birthday and prior to his
31 completion of 25 years or more of creditable service, his
32 retirement allowance shall be computed as in
33 G.S. 128-27(b21)(2) a. but shall be reduced by one-quarter of
34 one percent ($1/4$ of 1%) thereof for each month by which his
35 retirement date precedes the first day of the month coincident
36 with or next following his 65th birthday.
- 37 c. If the member's early service retirement date occurs on or after
38 his 50th birthday and before his 60th birthday and after
39 completion of 20 years of creditable service but prior to the
40 completion of 30 years of creditable service, his early service
41 retirement allowance shall be equal to the greater of:
- 42 1. The service retirement allowance as computed under
43 G.S. 128-27(b21)(2)a. but reduced by the sum of
44 five-twelfths of one percent ($5/12$ of 1%) thereof for

1 each month by which his retirement date precedes the
2 first day of the month coincident with or next following
3 the month the member would have attained his 60th
4 birthday, plus one-quarter of one percent (1/4 of 1%)
5 thereof for each month by which his 60th birthday
6 precedes the first day of the month coincident with or
7 next following his 65th birthday; or

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

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

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

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

20 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2005.
21 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
22 after July 1, 2005, a member shall receive the following service retirement allowance:

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

26 a. If the member's service retirement date occurs on or after his
27 55th birthday and completion of five years of creditable service
28 as a law enforcement officer, or after the completion of 25 years
29 of creditable service, the allowance shall be equal to one and
30 eighty-two hundredths percent (1.82%) of his average final
31 compensation, multiplied by the number of years of his
32 creditable service.

33 b. If the member's service retirement date occurs on or after his
34 50th birthday and before his 55th birthday with 15 or more
35 years of creditable service as a law enforcement officer and
36 prior to the completion of 25 years of creditable service, his
37 retirement allowance shall be equal to the greater of:

38 1. The service retirement allowance payable under
39 G.S. 128-27(b22)(1)a. reduced by one-third of one
40 percent (1/3 of 1%) thereof for each month by which his
41 retirement date precedes the first day of the month
42 coincident with or next following the month the member
43 would have attained his 55th birthday;

- 1 2. The service retirement allowance as computed under
2 G.S. 128-27(b22)(1)a. reduced by five percent (5%)
3 times the difference between 25 years and his creditable
4 service at retirement.
- 5 (2) A member who is not a law enforcement officer or an eligible former
6 law enforcement officer shall receive a service retirement allowance
7 computed as follows:
- 8 a. If the member's service retirement date occurs on or after his
9 65th birthday upon the completion of five years of creditable
10 service or after the completion of 30 years of creditable service
11 or on or after his 60th birthday upon the completion of 25 years
12 of creditable service, the allowance shall be equal to one and
13 eighty-two hundredths percent (1.82%) of average final
14 compensation, multiplied by the number of years of creditable
15 service.
- 16 b. If the member's service retirement date occurs after his 60th
17 birthday and before his 65th birthday and prior to his
18 completion of 25 years or more of creditable service, his
19 retirement allowance shall be computed as in
20 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
21 one percent (1/4 of 1%) thereof for each month by which his
22 retirement date precedes the first day of the month coincident
23 with or next following his 65th birthday.
- 24 c. If the member's early service retirement date occurs on or after
25 his 50th birthday and before his 60th birthday and after
26 completion of 20 years of creditable service but prior to the
27 completion of 30 years of creditable service, his early service
28 retirement allowance shall be equal to the greater of:
- 29 1. The service retirement allowance as computed under
30 G.S. 128-27(b22)(2)a. but reduced by the sum of
31 five-twelfths of one percent (5/12 of 1%) thereof for
32 each month by which his retirement date precedes the
33 first day of the month coincident with or next following
34 the month the member would have attained his 60th
35 birthday, plus one-quarter of one percent (1/4 of 1%)
36 thereof for each month by which his 60th birthday
37 precedes the first day of the month coincident with or
38 next following his 65th birthday; or
- 39 2. The service retirement allowance as computed under
40 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
41 times the difference between 30 years and his creditable
42 service at retirement; or
- 43 3. If the member's creditable service commenced prior to
44 July 1, 1995, the service retirement allowance equal to

1 the actuarial equivalent of the allowance payable at the
2 age of 60 years as computed in G.S. 128-27(b22)(2)b.

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

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

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

- 13 (1) a. The member had attained such age and/or creditable service to
14 be eligible to commence retirement with an early or service
15 retirement allowance, or
16 b. The member had obtained 20 years of creditable service in
17 which case the retirement allowance shall be computed in
18 accordance with ~~G.S. 128-27(b21)(1)b.~~ or
19 ~~G.S. 128-27(b21)(2)c.,~~ G.S. 128-27(b22)(1)b. or
20 G.S. 128-27(b22)(2)c., notwithstanding the requirement of
21 obtaining age 50, or
22 c. The member had not commenced to receive a retirement
23 allowance as provided under this Chapter.
24 (2) The member had designated as the principal beneficiary to receive a
25 return of his accumulated contributions one and only one person who
26 is living at the time of his death.
27 (3) The member had not instructed the Board of Trustees in writing that he
28 did not wish the provisions of this subsection apply.

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

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

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

1 creditable service. The allowance shall be paid in 12 equal installments on the last day
2 of each month. To qualify for the allowance the officer shall:

- 3 (1) Have (i) completed ~~30~~ 25 or more years of creditable service or, (ii)
4 have attained 55 years of age and completed five or more years of
5 creditable service; and
6 (2) Not have attained 62 years of age; and
7 (3) Have completed at least five years of continuous service as a law
8 enforcement officer as herein defined immediately preceding a service
9 retirement. Any break in the continuous service required by this
10 subsection because of disability retirement or disability salary
11 continuation benefits shall not adversely affect an officer's
12 qualification to receive the allowance, provided the officer returns to
13 service within 45 days after the disability benefits cease and is
14 otherwise qualified to receive the allowance."

15 **SECTION 8.** This act becomes effective July 1, 2005.