

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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SENATE DRS75008-LL-18 (12/5)

Short Title: 25-Year Law Enforcement Retirement.

(Public)

Sponsors: Senator Boseman.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF SERVICE AND TO AMEND THE SPECIAL SEPARATION ALLOWANCE BENEFIT FOR LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

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

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-2002~~, but Before July 1, 2009. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2009, a member shall receive the following service retirement allowance:

- (1) A member who is a law enforcement officer or an eligible former law enforcement officer shall receive a service retirement allowance computed as follows:
 - a. If the member's service retirement date occurs on or after his 55th birthday, and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of his creditable service.
 - b. If the member's service retirement date occurs on or after his 50th birthday and before his 55th birthday with 15 or more years of creditable service as a law enforcement officer and prior to the completion of 30 years of creditable service, his retirement allowance shall be equal to the greater of:
 1. The service retirement allowance payable under G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or
 2. The service retirement allowance as computed under G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the



1 difference between 30 years and his creditable service at
2 retirement.

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

6 a. If the member's service retirement date occurs on or after his 65th
7 birthday upon the completion of five years of membership service or
8 after the completion of 30 years of creditable service or on or after
9 his 60th birthday upon the completion of 25 years of creditable
10 service, the allowance shall be equal to one and eighty-two
11 hundredths percent (1.82%) of his average final compensation,
12 multiplied by the number of years of creditable service.

13 b. If the member's service retirement date occurs after his 60th birthday
14 and before his 65th birthday and prior to his completion of 25 years
15 or more of creditable service, his retirement allowance shall be
16 computed as in G.S. 135-5(b19)(2)a. but shall be reduced by
17 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
18 which his retirement date precedes the first day of the month
19 coincident with or next following his 65th birthday.

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

25 1. The service retirement allowance as computed under
26 G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths
27 of one percent ($\frac{5}{12}$ of 1%) thereof for each month by which
28 his retirement date precedes the first day of the month
29 coincident with or next following the month the member
30 would have attained his 60th birthday, plus one-quarter of one
31 percent ($\frac{1}{4}$ of 1%) thereof for each month by which his 60th
32 birthday precedes the first day of the month coincident with
33 or next following his 65th birthday; or

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

38 3. If the member's creditable service commenced prior to July 1,
39 1994, the service retirement allowance equal to the actuarial
40 equivalent of the allowance payable at the age of 60 years as
41 computed in G.S. 135-5(b19)(2)b.

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

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

46 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2009. –
47 Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July
48 1, 2009, a member shall receive the following service retirement allowance:

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

- 1 a. If the member's service retirement date occurs on or after his 55th
2 birthday, and completion of five years of creditable service as a law
3 enforcement officer, or after the completion of 25 years of creditable
4 service, the allowance shall be equal to one and eighty-two
5 hundredths percent (1.82%) of his average final compensation,
6 multiplied by the number of years of his creditable service.
- 7 b. If the member's service retirement date occurs on or after his 50th
8 birthday and before his 55th birthday with 15 or more years of
9 creditable service as a law enforcement officer and prior to the
10 completion of 25 years of creditable service, his retirement allowance
11 shall be equal to the greater of:
- 12 1. The service retirement allowance payable under
13 G.S. 135-5(b20)(1)a. reduced by one-third of one percent (1/3
14 of 1%) thereof for each month by which his retirement date
15 precedes the first day of the month coincident with or next
16 following the month the member would have attained his
17 55th birthday; or
- 18 2. The service retirement allowance as computed under
19 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times the
20 difference between 25 years and his creditable service at
21 retirement.
- 22 (2) A member who is not a law enforcement officer or an eligible former law
23 enforcement officer shall receive a service retirement allowance computed
24 as follows:
- 25 a. If the member's service retirement date occurs on or after his 65th
26 birthday upon the completion of five years of membership service or
27 after the completion of 30 years of creditable service or on or after
28 his 60th birthday upon the completion of 25 years of creditable
29 service, the allowance shall be equal to one and eighty-two
30 hundredths percent (1.82%) of his average final compensation,
31 multiplied by the number of years of creditable service.
- 32 b. If the member's service retirement date occurs after his 60th birthday
33 and before his 65th birthday and prior to his completion of 25 years
34 or more of creditable service, his retirement allowance shall be
35 computed as in G.S. 135-5(b20)(2)a. but shall be reduced by
36 one-quarter of one percent (1/4 of 1%) thereof for each month by
37 which his retirement date precedes the first day of the month
38 coincident with or next following his 65th birthday.
- 39 c. If the member's early service retirement date occurs on or after his
40 50th birthday and before his 60th birthday and after completion of 20
41 years of creditable service but prior to the completion of 30 years of
42 creditable service, his early service retirement allowance shall be
43 equal to the greater of:
- 44 1. The service retirement allowance as computed under
45 G.S. 135-5(b20)(2)a. but reduced by the sum of five-twelfths
46 of one percent (5/12 of 1%) thereof for each month by which
47 his retirement date precedes the first day of the month
48 coincident with or next following the month the member
49 would have attained his 60th birthday, plus one-quarter of one
50 percent (1/4 of 1%) thereof for each month by which his 60th

1 birthday precedes the first day of the month coincident with
2 or next following his 65th birthday; or

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

7 3. If the member's creditable service commenced prior to July 1,
8 1994, the service retirement allowance equal to the actuarial
9 equivalent of the allowance payable at the age of 60 years as
10 computed in G.S. 135-5(b20)(2)b.

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

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

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

- 20 (1) a. The member had attained such age and/or creditable service to be
21 eligible to commence retirement with an early or service retirement
22 allowance,
23 b. The member had obtained 20 years of creditable service in which
24 case the retirement allowance shall be computed in accordance with
25 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., G.S. 135-5(b20)(1)b.
26 or G.S. 135-5(b20)(2)c., notwithstanding the requirement of
27 obtaining age 50, or
28 c. The member had not commenced to receive a retirement allowance
29 as provided under this Chapter.
30 (2) The member had designated as the principal beneficiary to receive a return
31 of his accumulated contributions one and only one person who was living at
32 the time of his death.
33 (3) The member had not instructed the Board of Trustees in writing that he did
34 not wish the provisions of this subsection to apply.

35 For the purpose of this benefit, a member is considered to be in service at the date of his
36 death if his death occurs within 180 days from the last day of his actual service. The last day of
37 actual service shall be determined as provided in subsection (l) of this section. Upon the death
38 of a member in service, the surviving spouse may make all purchases for creditable service as
39 provided for under this Chapter for which the member had made application in writing prior to
40 the date of death, provided that the date of death occurred prior to or within 60 days after
41 notification of the cost to make the purchase. The term "in service" as used in this subsection
42 includes a member in receipt of a benefit under the Disability Income Plan as provided in
43 Article 6 of this Chapter."

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

45 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003-2003,~~
46 but Before July 1, 2009. – Upon retirement from service in accordance with subsection (a) or
47 (a1) above, on or after July 1, 2003, but before July 1, 2009, a member shall receive the
48 following service retirement allowance:

- 49 (1) A member who is a law enforcement officer or an eligible former law
50 enforcement officer shall receive a service retirement allowance computed
51 as follows:

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

- 1 by which his 60th birthday precedes the first day of the month
2 coincident with or next following his 65th birthday; or
3 2. The service retirement allowance as computed under
4 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
5 difference between 30 years and his creditable service at
6 retirement; or
7 3. If the member's creditable service commenced prior to July 1,
8 1995, the service retirement allowance equal to the actuarial
9 equivalent of the allowance payable at the age of 60 years as
10 computed in G.S. 128-27(b21)(2)b.
11 d. Notwithstanding the foregoing provisions, any member whose
12 creditable service commenced prior to July 1, 1965, shall not receive
13 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 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2009. – Upon
16 retirement from service in accordance with subsection (a) or (a1) above, on or after July 1,
17 2009, 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 computed
20 as follows:

21 a. If the member's service retirement date occurs on or after his 55th
22 birthday and completion of five years of creditable service as a law
23 enforcement officer, or after the completion of 25 years of creditable
24 service, the allowance shall be equal to one and eighty-five
25 hundredths percent (1.85%) of his average final compensation,
26 multiplied by the number of years of his creditable service.

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

32 1. The service retirement allowance payable under
33 G.S. 128-27(b22)(1)a. reduced by one-third of one percent
34 (1/3 of 1%) thereof for each month by which his retirement
35 date precedes the first day of the month coincident with or
36 next following the month the member would have attained his
37 55th birthday;

38 2. The service retirement allowance as computed under
39 G.S. 128-27(b22)(1)a. reduced by five percent (5%) times the
40 difference between 25 years and his creditable service at
41 retirement.

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

45 a. If the member's service retirement date occurs on or after his 65th
46 birthday upon the completion of five years of creditable service or
47 after the completion of 30 years of creditable service or on or after
48 his 60th birthday upon the completion of 25 years of creditable
49 service, the allowance shall be equal to one and eighty-five
50 hundredths percent (1.85%) of average final compensation,
51 multiplied by the number of years of creditable service.

- 1 **b.** If the member's service retirement date occurs after his 60th birthday
2 and before his 65th birthday and prior to his completion of 25 years
3 or more of creditable service, his retirement allowance shall be
4 computed as in G.S. 128-27(b22)(2)a. but shall be reduced by
5 one-quarter of one percent (1/4 of 1%) thereof for each month by
6 which his retirement date precedes the first day of the month
7 coincident with or next following his 65th birthday.
- 8 **c.** If the member's early service retirement date occurs on or after his
9 50th birthday and before his 60th birthday and after completion of 20
10 years of creditable service but prior to the completion of 30 years of
11 creditable service, his early service retirement allowance shall be
12 equal to the greater of:
- 13 **1.** The service retirement allowance as computed under
14 G.S. 128-27(b22)(2)a. but reduced by the sum of
15 five-twelfths of one percent (5/12 of 1%) thereof for each
16 month by which his retirement date precedes the first day of
17 the month coincident with or next following the month the
18 member would have attained his 60th birthday, plus
19 one-quarter of one percent (1/4 of 1%) thereof for each month
20 by which his 60th birthday precedes the first day of the month
21 coincident with or next following his 65th birthday; or
- 22 **2.** The service retirement allowance as computed under
23 G.S. 128-27(b22)(2)a. reduced by five percent (5%) times the
24 difference between 30 years and his creditable service at
25 retirement; or
- 26 **3.** If the member's creditable service commenced prior to July 1,
27 1995, the service retirement allowance equal to the actuarial
28 equivalent of the allowance payable at the age of 60 years as
29 computed in G.S. 128-27(b22)(2)b.
- 30 **d.** Notwithstanding the foregoing provisions, any member whose
31 creditable service commenced prior to July 1, 1965, shall not receive
32 less than the benefit provided by G.S. 128-27(b)."

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

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

- 39 (1) **a.** The member had attained such age and/or creditable service to be
40 eligible to commence retirement with an early or service retirement
41 allowance, or
- 42 **b.** The member had obtained 20 years of creditable service in which
43 case the retirement allowance shall be computed in accordance with
44 G.S. 128-27(b21)(1)b. ~~or~~ G.S. 128-27(b21)(2)e.,
45 G.S. 128-27(b22)(1)b. or G.S. 128-27(b22)(2)c., notwithstanding the
46 requirement of obtaining age 50, or
- 47 **c.** The member had not commenced to receive a retirement allowance
48 as provided under this Chapter.
- 49 (2) The member had designated as the principal beneficiary to receive a return
50 of his accumulated contributions one and only one person who is living at
51 the time of his death.

- 1 (3) The member had not instructed the Board of Trustees in writing that he did
2 not wish the provisions of this subsection apply.

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

10 **SECTION 7.** G.S. 143-166.41 reads as rewritten:

11 **"§ 143-166.41. Special separation allowance.**

12 (a) Notwithstanding any other provision of law, every sworn law-enforcement officer
13 as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State department,
14 agency, or institution who qualifies under this section shall receive, beginning in the month in
15 which he retires on a basic service retirement under the provisions of G.S. 135-5(a) or
16 G.S. 143-166(y), an annual separation allowance equal to eighty-five hundredths percent
17 (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to
18 him for each year of creditable service. Payment of the special separation allowance shall be
19 made at the same time as the officer's retirement benefits. The allowance shall be paid in equal
20 installments on the payroll frequency used by the employer. To qualify for the allowance the
21 officer shall:

- 22 (1) Have (i) completed ~~30~~ 25 or more years of creditable service or, (ii) have
23 attained 55 years of age and completed five or more years of creditable
24 service; and
25 (2) Not have ~~attained 62 years of age;~~ become eligible for unreduced Social
26 Security benefits; and
27 (3) Have completed at least five years of continuous service as a law
28 enforcement officer as herein defined immediately preceding a service
29 retirement. Any break in the continuous service required by this subsection
30 because of disability retirement or disability salary continuation benefits
31 shall not adversely affect an officer's qualification to receive the allowance,
32 provided the officer returns to service within 45 days after the disability
33 benefits cease and is otherwise qualified to receive the allowance.

34 (b) As used in this section, "creditable service" means the service for which credit is
35 allowed under the retirement system of which the officer is a member, provided that at least
36 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

37 (b1) Payment of the special separation allowance shall be administered by the
38 Department of State Treasurer, which shall establish a Special Separation Allowance Fund to
39 receive funds from each department, agency, or institution employing officers who are entitled
40 to receive benefits under this Article. The Department of State Treasurer shall establish the
41 percentage allocation for each officer during the officer's employment with an agency based
42 upon the amount necessary to fund the officer's separation allowance. Each agency shall pay
43 this amount to the Department of State Treasurer to be allocated to each officer during the
44 officer's career, and the amount shall be portable from agency to agency.

45 (c) Payment to a retired officer under the provisions of this section shall cease at the
46 first of:

- 47 (1) The death of the officer;
48 (2) The last day of the month in which the officer ~~attains 62 years of age;~~
49 becomes eligible for unreduced Social Security benefits; or
50 (3) ~~The first day of reemployment by any State department, agency, or~~
51 ~~institution, except that this subdivision does not apply to an officer returning~~

1 to State employment in a position exempt from the State Personnel Act in an
2 agency other than the agency from which that officer retired. Any
3 employment of the officer that causes suspension of payment of the officer's
4 retirement allowance.

5 (d) This section does not affect the benefits to which an individual may be entitled from
6 State, federal, or private retirement systems. The benefits payable under this section shall not
7 be subject to any increases in salary or retirement allowances that may be authorized by the
8 General Assembly for employees of the State or retired employees of the State.

9 (e) The head of each State department, agency, or institution shall determine the
10 eligibility of employees for the benefits provided herein.

11 (f) The Director of the Budget may authorize from time to time the transfer of funds
12 within the budgets of each State department, agency, or institution necessary to carry out the
13 purposes of this Article. These funds shall be taken from those appropriated to the department,
14 agency, or institution for salaries and related fringe benefits.

15 (g) The head of each State department, agency, or institution shall make the payments
16 set forth in subsection (a) to those persons certified under subsection (e) from funds available
17 under subsection (f)."

18 **SECTION 8.** The Department of State Treasurer shall develop and implement a
19 plan for transitioning administration of the special separation allowance to the Department as
20 provided for in this act.

21 **SECTION 9.** Section 8 of this act is effective when it becomes law. Section 7 of
22 this act becomes effective January 1, 2010. The remainder of this act becomes effective July 1,
23 2009.