

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2005**

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**HOUSE BILL 447**

Short Title: LEO Creditable Service/Workers' Compensation. (Public)

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Sponsors: Representatives Glazier, Eddins (Primary Sponsors); B. Allen, Allred, Cunningham, Dickson, Faison, Insko, Martin, McLawhorn, Pate, Setzer, Underhill, Wainwright, and Wray.

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Referred to: Pensions and Retirement.

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March 2, 2005

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE THAT CREDITABLE SERVICE FOR LAW  
2 ENFORCEMENT OFFICERS IN THE LOCAL GOVERNMENTAL  
3 EMPLOYEES' RETIREMENT SYSTEM SHALL INCLUDE PERIODS OF  
4 EMPLOYER-APPROVED LEAVES OF ABSENCE WHEN IN RECEIPT OF  
5 WORKERS' COMPENSATION BENEFITS AS A RESULT OF CERTAIN  
6 INJURIES INCURRED IN THE LINE OF DUTY.  
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 128-26(l) reads as rewritten:

10 "(l) Notwithstanding any other provision of this Chapter, any member may  
11 purchase creditable service for periods of employer approved leaves of absence when in  
12 receipt of benefits under the North Carolina Workers' Compensation Act. This service  
13 shall be purchased by paying a cost calculated in the following manner:

- 14 (1) Leaves of Absence Terminated Prior to July 1, 1983. – The cost to a  
15 member whose employer approved leave of absence, when in receipt  
16 of benefits under the North Carolina Workers' Compensation Act,  
17 terminated upon return to service prior to July 1, 1983, shall be a lump  
18 sum amount payable to the Annuity Savings Fund equal to the full  
19 liability of the service credits calculated on the basis of the  
20 assumptions used for purposes of the actuarial valuation of the  
21 system's liabilities, and shall take into account the retirement  
22 allowance arising on account of the additional service credit  
23 commencing at the earliest age at which the member could retire on an  
24 unreduced retirement allowance, as determined by the board of  
25 trustees upon the advice of the consulting actuary, plus an  
26 administrative fee to be set by the Board of Trustees. Notwithstanding  
27 the foregoing provisions of this subdivision that provide for the

1 purchase of service credits, the terms "full cost", "full liability", and  
2 "full actuarial cost" include assumed annual post-retirement allowance  
3 increases, as determined by the Board of Trustees, from the earliest  
4 age at which a member could retire on an unreduced service  
5 allowance.

- 6 (2) Leaves of Absence Terminating On and After July 1, 1983. – The cost  
7 to a member whose employer approved leave of absence, when in  
8 receipt of benefits under the North Carolina Workers' Compensation  
9 Act, terminates upon return to service on and after July 1, 1983, shall  
10 be a lump sum amount due and payable to the Annuity Savings Fund  
11 within six months from return to service equal to the total employee  
12 and employer percentage rates of contribution in effect at the time of  
13 purchase and based on the annual rate of compensation of the member  
14 immediately prior to the leave of absence; Provided, however, the cost  
15 to a member whose amount due is not paid within six months from  
16 return to service shall be the amount due plus one percent (1%) per  
17 month penalty for each month or fraction thereof the payment is made  
18 beyond the six-month period.

19 Whenever the creditable service purchased pursuant to this subsection is for a period  
20 that occurs during the four consecutive calendar years that would have produced the  
21 highest average annual compensation pursuant to G.S. 128-21(5) had the member not  
22 been on leave of absence without pay, then the compensation that the member would  
23 have received during the purchased period shall be included in calculating the member's  
24 average final compensation. In such cases, the compensation that the member would  
25 have received during the purchased period shall be based on the annual rate of  
26 compensation of the member immediately prior to the leave of absence.

27 In the case of a law enforcement officer electing to purchase service under this  
28 section who is in receipt of benefits under the North Carolina Workers' Compensation  
29 Act due to serious bodily injury suffered in the line of duty as a result of an intentional  
30 or unlawful act of another, as certified by the head of the employing law enforcement  
31 agency, and whose approved leave of absence terminates on or before a return to service  
32 on and after August 1, 2005, the lump sum payable under subdivision (2) of this  
33 subsection shall be made by the employer that granted the leave of absence. The cost to  
34 the law enforcement officer shall be reduced by the amount paid by the employer. For  
35 purposes of this subsection, "serious bodily injury" means bodily injury that creates a  
36 substantial risk of death, or that causes serious permanent disfigurement, coma, a  
37 permanent or protracted condition that causes extreme pain, or permanent or protracted  
38 loss or impairment of the function of any bodily member or organ, or that results in  
39 prolonged hospitalization.

40 Nothing in this subsection prevents an employer from voluntarily paying all or a part  
41 of the employee portion of the total cost of the service credit purchased, and an  
42 employer does not discriminate against any member or group of members employed by  
43 the employer by paying that portion of cost. To the extent paid by the employer, the  
44 employee portion paid by the employer shall be credited to the Pension Accumulation

1 Fund; to the extent paid by the member, the employee portion paid by the member shall  
2 be credited to the member's annuity savings account. A member shall pay any part of  
3 the employee portion of the total cost not paid by the employer."

4 **SECTION 2.** This act is effective when it becomes law.