

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 447  
Committee Substitute Favorable 4/25/05  
Senate Pensions & Retirement and Aging Committee Substitute Adopted 6/7/06**

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

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Sponsors:

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Referred to:

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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  
28 purchase of service credits, the terms "full cost", "full liability", and

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

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

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

26 In the case of a law enforcement officer electing to purchase service under this  
27 section who is in receipt of benefits under the North Carolina Workers' Compensation  
28 Act due to serious bodily injury suffered in the line of duty as a result of an intentional  
29 or unlawful act of another, as certified by the head of the employing law enforcement  
30 agency, and whose approved leave of absence terminates on or before a return to service  
31 on and after August 1, 2006, the employer percentage rate of contribution payable under  
32 subdivision (2) of this subsection shall be made by the employer that granted the leave  
33 of absence. The cost to the law enforcement officer shall be reduced by the amount paid  
34 by the employer. For purposes of this subsection, "serious bodily injury" means bodily  
35 injury that creates a substantial risk of death, or that causes serious permanent  
36 disfigurement, coma, a permanent or protracted condition that causes extreme pain, or  
37 permanent or protracted loss or impairment of the function of any bodily member or  
38 organ, or that results in prolonged hospitalization.

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

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

4           **SECTION 2.** This act becomes effective August 1, 2006, and applies to  
5 members who return to service from an approved leave of absence on or after that date.