

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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HOUSE BILL 1114*

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

Sponsors: Representatives Glazier, Moore, McLawhorn, Clary (Primary Sponsors); Barnhart, Coates, Dockham, Dollar, Faison, Fisher, Gillespie, Grady, T. Harrell, Harrison, Insko, Martin, McComas, Neumann, Pate, Pierce, Ross, Spear, Tarleton, Tucker, Underhill, Walend, Weiss, Womble, and Wray.

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

March 28, 2007

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 AND TO AMEND THE SPECIAL
6 SEPARATION ALLOWANCE BENEFIT FOR LAW ENFORCEMENT
7 OFFICERS.
8

9 The General Assembly of North Carolina enacts:

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

11 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-~~
12 2002, but Before July 1, 2007. – Upon retirement from service in accordance with
13 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2007, a member
14 shall receive the following service retirement allowance:

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

18 a. If the member's service retirement date occurs on or after his
19 55th birthday, and completion of five years of creditable service
20 as a law enforcement officer, or after the completion of 30 years
21 of creditable service, the allowance shall be equal to one and
22 eighty-two hundredths percent (1.82%) of his average final
23 compensation, multiplied by the number of years of his
24 creditable service.

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

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

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

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

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

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

18 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2007.
19 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
20 after July 1, 2007, a member shall receive the following service retirement allowance:

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

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

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

36 1. The service retirement allowance payable under
37 G.S. 135-5(b20)(1)a. reduced by one-third of one percent
38 ($\frac{1}{3}$ of 1%) thereof for each month by which his
39 retirement date precedes the first day of the month
40 coincident with or next following the month the member
41 would have attained his 55th birthday; or

42 2. The service retirement allowance as computed under
43 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times

- 1 the difference between 25 years and his creditable
2 service at retirement.
- 3 (2) A member who is not a law enforcement officer or an eligible former
4 law enforcement officer shall receive a service retirement allowance
5 computed as follows:
- 6 a. If the member's service retirement date occurs on or after his
7 65th birthday upon the completion of five years of membership
8 service or after the completion of 30 years of creditable service
9 or on or after his 60th birthday upon the completion of 25 years
10 of creditable service, the allowance shall be equal to one and
11 eighty-two hundredths percent (1.82%) of his average final
12 compensation, multiplied by the number of years of creditable
13 service.
- 14 b. If the member's service retirement date occurs after his 60th
15 birthday and before his 65th birthday and prior to his
16 completion of 25 years or more of creditable service, his
17 retirement allowance shall be computed as in
18 G.S. 135-5(b20)(2)a. but shall be reduced by one-quarter of one
19 percent (¼ of 1%) thereof for each month by which his
20 retirement date precedes the first day of the month coincident
21 with or next following his 65th birthday.
- 22 c. If the member's early service retirement date occurs on or after
23 his 50th birthday and before his 60th birthday and after
24 completion of 20 years of creditable service but prior to the
25 completion of 30 years of creditable service, his early service
26 retirement allowance shall be equal to the greater of:
- 27 1. The service retirement allowance as computed under
28 G.S. 135-5(b20)(2)a. but reduced by the sum of
29 five-twelfths of one percent (5/12 of 1%) thereof for
30 each month by which his retirement date precedes the
31 first day of the month coincident with or next following
32 the month the member would have attained his 60th
33 birthday, plus one-quarter of one percent (¼ of 1%)
34 thereof for each month by which his 60th birthday
35 precedes the first day of the month coincident with or
36 next following his 65th birthday; or
- 37 2. The service retirement allowance as computed under
38 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
39 the difference between 30 years and his creditable
40 service at retirement; or
- 41 3. If the member's creditable service commenced prior to
42 July 1, 1994, the service retirement allowance equal to
43 the actuarial equivalent of the allowance payable at the
44 age of 60 years as computed in G.S. 135-5(b20)(2)b.

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

4 **SECTION 3.** G.S. 135-5(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 2 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
10 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,
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. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c.,~~
17 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding
18 the requirement of obtaining age 50, or
19 c. The member had not commenced to receive a retirement
20 allowance as provided under this Chapter.
21 (2) The member had designated as the principal beneficiary to receive a
22 return of his accumulated contributions one and only one person who
23 was living at the time of his death.
24 (3) The member had not instructed the Board of Trustees in writing that he
25 did not wish the provisions of this subsection to apply.

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

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

37 "~~(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003.~~
38 2003, but Before July 1, 2007. – Upon retirement from service in accordance with
39 subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2007, a member
40 shall receive the following service retirement allowance:

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

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

- 3 1. The service retirement allowance as computed under
4 G.S. 128-27(b21)(2)a. but reduced by the sum of
5 five-twelfths of one percent (5/12 of 1%) thereof for
6 each month by which his retirement date precedes the
7 first day of the month coincident with or next following
8 the month the member would have attained his 60th
9 birthday, plus one-quarter of one percent (1/4 of 1%)
10 thereof for each month by which his 60th birthday
11 precedes the first day of the month coincident with or
12 next following his 65th birthday; or
- 13 2. The service retirement allowance as computed under
14 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
15 times the difference between 30 years and his creditable
16 service at retirement; or
- 17 3. If the member's creditable service commenced prior to
18 July 1, 1995, the service retirement allowance equal to
19 the actuarial equivalent of the allowance payable at the
20 age of 60 years as computed in G.S. 128-27(b21)(2)b.

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

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

25 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2007.
26 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
27 after July 1, 2007, a member shall receive the following service retirement allowance:

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

31 a. If the member's service retirement date occurs on or after his
32 55th birthday and completion of five years of creditable service
33 as a law enforcement officer, or after the completion of 25 years
34 of creditable service, the allowance shall be equal to one and
35 eighty-five hundredths percent (1.85%) of his average final
36 compensation, multiplied by the number of years of his
37 creditable service.

38 b. If the member's service retirement date occurs on or after his
39 50th birthday and before his 55th birthday with 15 or more
40 years of creditable service as a law enforcement officer and
41 prior to the completion of 25 years of creditable service, his
42 retirement allowance shall be equal to the greater of:

- 43 1. The service retirement allowance payable under
44 G.S. 128-27(b22)(1)a. reduced by one-third of one

- 1 percent (1/3 of 1%) thereof for each month by which his
2 retirement date precedes the first day of the month
3 coincident with or next following the month the member
4 would have attained his 55th birthday;
5 2. The service retirement allowance as computed under
6 G.S. 128-27(b22)(1)a. reduced by five percent (5%)
7 times the difference between 25 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 creditable
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-five hundredths percent (1.85%) of 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
24 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
25 one 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. 128-27(b22)(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. 128-27(b22)(2)a. reduced by five percent (5%)

1 department, agency, or institution who qualifies under this section shall receive,
2 beginning ~~on the last day of~~ in the month in which he retires on a basic service
3 retirement under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual
4 separation allowance equal to eighty-five hundredths percent (0.85%) of the annual
5 equivalent of the base rate of compensation most recently applicable to him for each
6 year of creditable service. Payment of the special separation allowance shall be made at
7 the same time as the officer's retirement benefits. The allowance shall be paid in 12
8 equal ~~installments on the last day of each month.~~ installments. To qualify for the
9 allowance the officer shall:

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

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

27 (b1) Payment of the special separation allowance shall be administered by the
28 Department of State Treasurer, which shall establish a Special Separation Allowance
29 Fund to receive funds from each department, agency, or institution employing officers
30 who are entitled to receive benefits under this Article. The Department of State
31 Treasurer shall establish the percentage allocation for each officer during the officer's
32 employment with an agency based upon the amount necessary to fund the officer's
33 separation allowance. Each agency shall pay this amount to the Department of State
34 Treasurer to be allocated to each officer during the officer's career and the amount shall
35 be portable from agency to agency.

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

- 38 (1) The death of the officer;
- 39 (2) The last day of the month in which the officer ~~attains 62 years of age;~~
40 becomes eligible for unreduced Social Security benefits; or
- 41 (3) ~~The first day of reemployment by any State department, agency, or~~
42 ~~institution, except that this subdivision does not apply to an officer~~
43 ~~returning to State employment in a position exempt from the State~~
44 ~~Personnel Act in an agency other than the agency from which that~~

1 ~~officer retired.~~ Any employment of the officer that causes suspension
2 of payment of the officer's retirement allowance.

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

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

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

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

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

21 **SECTION 9.** Section 8 of this act is effective when it becomes law. The
22 remainder of this act becomes effective January 1, 2008.