

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE DRH10686-LL-148A* (3/9)

Short Title: Clarify Local Special Separation Allowance. (Public)

Sponsors: Representatives Cotham, Dollar, McLawhorn, Weiss (Primary Sponsors);
Guice, Harrell, Harrison, Jackson, Randleman, Stam, and Stewart.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE LAW REGARDING THE SPECIAL SEPARATION
3 ALLOWANCE PROVIDED TO LAW ENFORCEMENT OFFICERS UNDER THE
4 LOCAL GOVERNMENTAL RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 SECTION 1 G.S. 143-166.42 reads as rewritten:

7 "§ 143-166.42. Special separation allowances for local officers.

8 (a) On and after January 1, 1987, ~~the provisions of G.S. 143-166.41 shall apply to all~~
9 ~~eligible law enforcement officersevery sworn law enforcement officer~~ as defined by
10 G.S. 128-21(11b) or G.S. 143-166.50(a)(3) ~~who are employed by a local government~~
11 ~~employers, except as may be provided by this section. As to the applicability of the provisions~~
12 ~~of G.S. 143-166.41 to locally employed officers, the governing body for each unit of local~~
13 ~~government shall be responsible for making determinations of eligibility for their local officers~~
14 ~~retired under the provisions of G.S. 128-27(a) and for making payments to their eligible~~
15 ~~officers under the same terms and conditions, other than the source of payment, as apply to~~
16 ~~each State department, agency, or institution in payments to State officers according to the~~
17 ~~provisions of G.S. 143-166.41.~~ government employer who qualifies under this section shall
18 receive, beginning in the month in which the officer retires on a basic service retirement under
19 the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five
20 hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most
21 recently applicable to the officer for each year of creditable service. The allowance shall be
22 paid in equal installments on the payroll frequency used by the employer. To qualify for the
23 allowance the officer shall:

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



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

4 **(c)** Payment to a retired officer under the provisions of this section shall cease at the
5 first of:

6 **(1)** The death of the officer;

7 **(2)** The last day of the month in which the officer attains 62 years of age; or

8 **(3)** The first day of reemployment by a local government employer in any
9 capacity.

10 Notwithstanding the provisions of subdivision (3) of this subsection, a local government
11 employer may, in the interest of public safety, voluntarily adopt a policy allowing employment
12 of retired officers on a contractual basis, or in a temporary or reserve capacity not requiring
13 participation in the Local Governmental Employees' Retirement System, without causing the
14 cessation of payment to those officers under this section.

15 **(d)** This section does not affect the benefits to which an individual may be entitled from
16 State, local, federal, or private retirement systems. The benefits payable under this section shall
17 not be subject to any increases in salary or retirement allowances that may be authorized by
18 local government employers or for retired employees of local governments.

19 **(e)** The head of each local employer shall determine the eligibility of employees for the
20 benefits provided herein.

21 **(f)** The head of each local employer shall make the payments set forth in subsection (a)
22 of this section to those persons certified under subsection (e) of this section from funds
23 available."

24 **SECTION 2.** Any local government that has denied the payment of a special
25 separation allowance to a law enforcement officer for any reason other than those authorized by
26 G.S.143-166.42(c) as enacted by this act shall reinstate payment of that officer's special
27 separation allowance and make any necessary back payments to rectify that denial.

28 **SECTION 3.** This act is effective when it becomes law.