

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE BILL 624

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

Sponsors: Senator Boseman.

Referred to: Pensions & Retirement & Aging.

March 17, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS OF THE
3 TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL
4 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH
5 UNREDUCED BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF
6 SERVICE AND TO AMEND THE SPECIAL SEPARATION ALLOWANCE BENEFIT
7 FOR LAW ENFORCEMENT OFFICERS.

8 The General Assembly of North Carolina enacts:

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

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

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

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

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

28 1. The service retirement allowance payable under
29 G.S. 135-5(b19)(1)a. reduced by one-third of one percent (1/3
30 of 1%) thereof for each month by which his retirement date
31 precedes the first day of the month coincident with or next
32 following the month the member would have attained his
33 55th birthday; or

34 2. The service retirement allowance as computed under
35 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the
36 difference between 30 years and his creditable service at
37 retirement.



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

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

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

18 c. If the member's early service retirement date occurs on or after his
19 50th birthday and before his 60th birthday and after completion of 20
20 years of creditable service but prior to the completion of 30 years of
21 creditable service, his early service retirement allowance shall be
22 equal to the greater of:

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

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

36 3. If the member's creditable service commenced prior to July 1,
37 1994, the service retirement allowance equal to the actuarial
38 equivalent of the allowance payable at the age of 60 years as
39 computed in G.S. 135-5(b19)(2)b.

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

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

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

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

50 a. If the member's service retirement date occurs on or after his 55th
51 birthday, and completion of five years of creditable service as a law

- 1 enforcement officer, or after the completion of 25 years of creditable
2 service, the allowance shall be equal to one and eighty-two
3 hundredths percent (1.82%) of his average final compensation,
4 multiplied by the number of years of his creditable service.
- 5 b. If the member's service retirement date occurs on or after his 50th
6 birthday and before his 55th birthday with 15 or more years of
7 creditable service as a law enforcement officer and prior to the
8 completion of 25 years of creditable service, his retirement allowance
9 shall be equal to the greater of:
- 10 1. The service retirement allowance payable under
11 G.S. 135-5(b20)(1)a. reduced by one-third of one percent (1/3
12 of 1%) thereof for each month by which his retirement date
13 precedes the first day of the month coincident with or next
14 following the month the member would have attained his
15 55th birthday; or
- 16 2. The service retirement allowance as computed under
17 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times the
18 difference between 25 years and his creditable service at
19 retirement.
- 20 (2) A member who is not a law enforcement officer or an eligible former law
21 enforcement officer shall receive a service retirement allowance computed
22 as follows:
- 23 a. If the member's service retirement date occurs on or after his 65th
24 birthday upon the completion of five years of membership service or
25 after the completion of 30 years of creditable service or on or after
26 his 60th birthday upon the completion of 25 years of creditable
27 service, the allowance shall be equal to one and eighty-two
28 hundredths percent (1.82%) of his average final compensation,
29 multiplied by the number of years of creditable service.
- 30 b. If the member's service retirement date occurs after his 60th birthday
31 and before his 65th birthday and prior to his completion of 25 years
32 or more of creditable service, his retirement allowance shall be
33 computed as in G.S. 135-5(b20)(2)a. but shall be reduced by
34 one-quarter of one percent (¼ of 1%) thereof for each month by
35 which his retirement date precedes the first day of the month
36 coincident with or next following his 65th birthday.
- 37 c. If the member's early service retirement date occurs on or after his
38 50th birthday and before his 60th birthday and after completion of 20
39 years of creditable service but prior to the completion of 30 years of
40 creditable service, his early service retirement allowance shall be
41 equal to the greater of:
- 42 1. The service retirement allowance as computed under
43 G.S. 135-5(b20)(2)a. but reduced by the sum of five-twelfths
44 of one percent (5/12 of 1%) thereof for each month by which
45 his retirement date precedes the first day of the month
46 coincident with or next following the month the member
47 would have attained his 60th birthday, plus one-quarter of one
48 percent (¼ of 1%) thereof for each month by which his 60th
49 birthday precedes the first day of the month coincident with
50 or next following his 65th birthday; or

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

5 3. If the member's creditable service commenced prior to July 1,
6 1994, the service retirement allowance equal to the actuarial
7 equivalent of the allowance payable at the age of 60 years as
8 computed in G.S. 135-5(b20)(2)b.

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

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

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

18 (1) a. The member had attained such age and/or creditable service to be
19 eligible to commence retirement with an early or service retirement
20 allowance,

21 b. The member had obtained 20 years of creditable service in which
22 case the retirement allowance shall be computed in accordance with
23 ~~G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c.,~~ G.S. 135-5(b20)(1)b.
24 or G.S. 135-5(b20)(2)c., notwithstanding the requirement of
25 obtaining age 50, or

26 c. The member had not commenced to receive a retirement allowance
27 as provided under this Chapter.

28 (2) The member had designated as the principal beneficiary to receive a return
29 of his accumulated contributions one and only one person who was living at
30 the time of his death.

31 (3) The member had not instructed the Board of Trustees in writing that he did
32 not wish the provisions of this subsection to apply.

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

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

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

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

50 a. If the member's service retirement date occurs on or after his 55th
51 birthday and completion of five years of creditable service as a law

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

1 2. The service retirement allowance as computed under
2 G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the
3 difference between 30 years and his creditable service at
4 retirement; or

5 3. If the member's creditable service commenced prior to July 1,
6 1995, the service retirement allowance equal to the actuarial
7 equivalent of the allowance payable at the age of 60 years as
8 computed in G.S. 128-27(b21)(2)b.

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

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

13 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2009. – Upon
14 retirement from service in accordance with subsection (a) or (a1) above, on or after July 1,
15 2009, a member shall receive the following service retirement allowance:

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

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

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

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

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

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

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

50 b. If the member's service retirement date occurs after his 60th birthday
51 and before his 65th birthday and prior to his completion of 25 years

1 or more of creditable service, his retirement allowance shall be
 2 computed as in G.S. 128-27(b22)(2)a. but shall be reduced by
 3 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
 4 which his retirement date precedes the first day of the month
 5 coincident with or next following his 65th birthday.

6 c. If the member's early service retirement date occurs on or after his
 7 50th birthday and before his 60th birthday and after completion of 20
 8 years of creditable service but prior to the completion of 30 years of
 9 creditable service, his early service retirement allowance shall be
 10 equal to the greater of:

11 1. The service retirement allowance as computed under
 12 G.S. 128-27(b22)(2)a. but reduced by the sum of
 13 five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for each
 14 month by which his retirement date precedes the first day of
 15 the month coincident with or next following the month the
 16 member would have attained his 60th birthday, plus
 17 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month
 18 by which his 60th birthday precedes the first day of the month
 19 coincident with or next following his 65th birthday; or

20 2. The service retirement allowance as computed under
 21 G.S. 128-27(b22)(2)a. reduced by five percent (5%) times the
 22 difference between 30 years and his creditable service at
 23 retirement; or

24 3. If the member's creditable service commenced prior to July 1,
 25 1995, the service retirement allowance equal to the actuarial
 26 equivalent of the allowance payable at the age of 60 years as
 27 computed in G.S. 128-27(b22)(2)b.

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

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

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

37 (1) a. The member had attained such age and/or creditable service to be
 38 eligible to commence retirement with an early or service retirement
 39 allowance, or

40 b. The member had obtained 20 years of creditable service in which
 41 case the retirement allowance shall be computed in accordance with
 42 ~~G.S. 128-27(b21)(1)b.~~ or ~~G.S. 128-27(b21)(2)e.,~~
 43 G.S. 128-27(b22)(1)b. or G.S. 128-27(b22)(2)c., notwithstanding the
 44 requirement of obtaining age 50, or

45 c. The member had not commenced to receive a retirement allowance
 46 as provided under this Chapter.

47 (2) The member had designated as the principal beneficiary to receive a return
 48 of his accumulated contributions one and only one person who is living at
 49 the time of his death.

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

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

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

9 **"§ 143-166.41. Special separation allowance.**

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

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

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

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

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

- 45 (1) The death of the officer;
- 46 (2) The last day of the month in which the officer ~~attains 62 years of age;~~
47 becomes eligible for unreduced Social Security benefits; or
- 48 (3) ~~The first day of reemployment by any State department, agency, or~~
49 ~~institution, except that this subdivision does not apply to an officer returning~~
50 ~~to State employment in a position exempt from the State Personnel Act in an~~
51 ~~agency other than the agency from which that officer retired. Any~~

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

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

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

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

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

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

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