

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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**SENATE BILL 53
Corrected Copy 2/18/03**

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

Sponsors: Senators Reeves, Holloman; Apodaca, Hargett, Smith, Stevens, Swindell,
and Thomas.

Referred to: Pensions & Retirement and Aging.

February 17, 2003

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.
6

7 The General Assembly of North Carolina enacts:

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

9 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-~~
10 2002, but Before July 1, 2003. – Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2003, a member
12 shall receive the following service retirement allowance:

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

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

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

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

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

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

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

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

13 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2003.
14 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
15 after July 1, 2003, 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
18 computed as follows:

19 a. If the member's service retirement date occurs on or after his
20 55th birthday, and completion of five years of creditable service
21 as a law enforcement officer, or after the completion of 25 years
22 of creditable service, the allowance shall be equal to one and
23 eighty-two hundredths percent (1.82%) of his average final
24 compensation, multiplied by the number of years of his
25 creditable service.

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

31 1. The service retirement allowance payable under G.S.
32 135-5(b20)(1)a. reduced by one-third of one percent (1/3
33 of 1%) thereof for each month by which his retirement
34 date precedes the first day of the month coincident with
35 or next following the month the member would have
36 attained his 55th birthday; or

37 2. The service retirement allowance as computed under
38 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times
39 the difference between 25 years and his creditable
40 service at retirement.

41 (2) A member who is not a law enforcement officer or an eligible former
42 law 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 65th birthday upon the completion of five years of membership
3 service or after the completion of 30 years of creditable service
4 or on or after his 60th birthday upon the completion of 25 years
5 of creditable service, the allowance shall be equal to one and
6 eighty-two hundredths percent (1.82%) of his average final
7 compensation, multiplied by the number of years of creditable
8 service.
- 9 b. If the member's service retirement date occurs after his 60th
10 birthday and before his 65th birthday and prior to his
11 completion of 25 years or more of creditable service, his
12 retirement allowance shall be computed as in G.S.
13 135-5(b20)(2)a. but shall be reduced by one-quarter of one
14 percent (1/4 of 1%) thereof for each month by which his
15 retirement date precedes the first day of the month coincident
16 with or next following his 65th birthday.
- 17 c. If the member's early service retirement date occurs on or after
18 his 50th birthday and before his 60th birthday and after
19 completion of 20 years of creditable service but prior to the
20 completion of 30 years of creditable service, his early service
21 retirement allowance shall be equal to the greater of:
- 22 1. The service retirement allowance as computed under
23 G.S. 135-5(b20)(2)a. but reduced by the sum of
24 five-twelfths of one percent (5/12 of 1%) thereof for
25 each month by which his retirement date precedes the
26 first day of the month coincident with or next following
27 the month the member would have attained his 60th
28 birthday, plus one-quarter of one percent (1/4 of 1%)
29 thereof for each month by which his 60th birthday
30 precedes the first day of the month coincident with or
31 next following his 65th birthday; or
- 32 2. The service retirement allowance as computed under
33 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
34 the difference between 30 years and his creditable
35 service at retirement; or
- 36 3. If the member's creditable service commenced prior to
37 July 1, 1994, the service retirement allowance equal to
38 the actuarial equivalent of the allowance payable at the
39 age of 60 years as computed in G.S. 135-5(b20)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1963, shall not
42 receive less than the benefit provided by G.S. 135-5(b)."

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

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

- 7 (1) a. The member had attained such age and/or creditable service to
8 be eligible to commence retirement with an early or service
9 retirement allowance, or
10 b. The member had obtained 20 years of creditable service in
11 which case the retirement allowance shall be computed in
12 accordance with ~~G.S. 135-5(b19)(1)b.~~ G.S. 135-5(b20)(1)b. or
13 ~~G.S. 135-5(b19)(2)c.,~~ G.S. 135-5(b20)(2)c., notwithstanding the
14 requirement of obtaining age 50.
15 (2) The member had designated as the principal beneficiary to receive a
16 return of his accumulated contributions one and only one person who
17 was living at the time of his death.
18 (3) The member had not instructed the Board of Trustees in writing that he
19 did not wish the provisions of this subsection to apply.

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

30 **SECTION 4.** G.S. 128-27(b20) reads as rewritten:

31 "(b20) Service Retirement Allowance of Member Retiring on or After July 1, ~~2002.~~
32 2002, but Before July 1, 2003. – Upon retirement from service in accordance with
33 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2003, a member
34 shall receive the following service retirement allowance:

- 35 (1) A member who is a law enforcement officer or an eligible former law
36 enforcement officer shall receive a service retirement allowance
37 computed as follows:
38 a. If the member's service retirement date occurs on or after his
39 55th birthday and completion of five years of creditable service
40 as a law enforcement officer, or after the completion of 30 years
41 of creditable service, the allowance shall be equal to one and
42 eighty-two hundredths percent (1.82%) of his average final
43 compensation, multiplied by the number of years of his
44 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 G.S.
7 128-27(b20)(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;
- 12 2. The service retirement allowance as computed under
13 G.S. 128-27(b20)(1)a. reduced by five percent (5%)
14 times 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 creditable
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 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 G.S.
31 128-27(b20)(2)a. but shall be reduced by one-quarter of one
32 percent (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. 128-27(b20)(2)a. but reduced by the sum of
42 five-twelfths of one percent (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 (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. 128-27(b20)(2)a. reduced by five percent (5%)
8 times 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, 1995, 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. 128-27(b20)(2)b.

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

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

18 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003.
19 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
20 after July 1, 2003, 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 G.S.
37 128-27(b21)(1)a. reduced by one-third of one percent
38 (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;

42 2. The service retirement allowance as computed under
43 G.S. 128-27(b21)(1)a. reduced by five percent (5%)

- 1 times 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 creditable
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 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 G.S.
18 128-27(b21)(2)a. but shall be reduced by one-quarter of one
19 percent (1/4 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. 128-27(b21)(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 (1/4 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. 128-27(b21)(2)a. reduced by five percent (5%)
39 times 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, 1995, 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. 128-27(b21)(2)b.

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

4 **SECTION 6.** G.S. 128-27(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 two 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 all
10 three of 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, or
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. 128-27(b20)(1)b.~~ G.S. 128-27(b21)(1)b.
17 or ~~G.S. 128-27(b20)(2)c.,~~ G.S. 128-27(b21)(2)c.,
18 notwithstanding the requirement of obtaining age 50.
19 (2) The member had designated as the principal beneficiary to receive a
20 return of his accumulated contributions one and only one person who
21 is living at the time of his death.
22 (3) The member had not instructed the Board of Trustees in writing that he
23 did not wish the provisions of this subsection apply.

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

32 **SECTION 7.** G.S. 143-166.41(a) reads as rewritten:

33 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
34 officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State
35 department, agency, or institution who qualifies under this section shall receive,
36 beginning on the last day of the month in which he retires on a basic service retirement
37 under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation
38 allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of
39 the base rate of compensation most recently applicable to him for each year of
40 creditable service. The allowance shall be paid in 12 equal installments on the last day
41 of each month. To qualify for the allowance the officer shall:

- 42 (1) Have (i) completed ~~30-25~~ or more years of creditable service or, (ii)
43 have attained 55 years of age and completed five or more years of
44 creditable service; and

- 1 (2) Not have attained 62 years of age; and
2 (3) Have completed at least five years of continuous service as a law
3 enforcement officer as herein defined immediately preceding a service
4 retirement. Any break in the continuous service required by this
5 subsection because of disability retirement or disability salary
6 continuation benefits shall not adversely affect an officer's
7 qualification to receive the allowance, provided the officer returns to
8 service within 45 days after the disability benefits cease and is
9 otherwise qualified to receive the allowance."

10 **SECTION 8.** This act becomes effective July 1, 2003.