

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 816
Committee Substitute Favorable 5/20/99

Short Title: Law Officers' 25-Year Retirement.

(Public)

Sponsors:

Referred to:

April 1, 1999

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW LAW OFFICERS WHO ARE MEMBERS OF THE TEACHERS'
2 AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL
3 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH
4 UNREDUCED BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF
5 SERVICE.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 135-5(b17) reads as rewritten:

8 "(b17) Service Retirement Allowance of Members Retiring on or After July 1,
9 ~~1997~~ 1997, but before July 1, 1999. – Upon retirement from service in accordance with
10 subsection (a) or (a1) above, on or after July 1, 1997, but before July 1, 1999, a member
11 shall receive the following service retirement allowance.

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

15 a. If the member's service retirement date occurs on or after his
16 55th birthday, and completion of five years of creditable service
17 as a law enforcement officer, or after the completion of 30 years
18 of creditable service, the allowance shall be equal to one and
19

- 1 eighty hundredths percent (1.80%) of his average final
2 compensation, multiplied by the number of years of his
3 creditable service.
- 4 b. If the member's service retirement date occurs on or after his
5 50th birthday and before his 55th birthday with 15 or more years
6 of creditable service as a law enforcement officer and prior to the
7 completion of 30 years of creditable service, his retirement
8 allowance shall be equal to the greater of:
- 9 1. The service retirement allowance payable under G.S. 135-
10 5(b17)(1)a, reduced by one-third of one percent ($1/3$ of
11 1%) thereof for each month by which his retirement date
12 precedes the first day of the month coincident with or next
13 following the month the member would have attained his
14 55th birthday; or
- 15 2. The service retirement allowance as computed under G.S.
16 135-5(b17)(1)a. reduced by five percent (5%) times the
17 difference between 30 years and his creditable service at
18 retirement.
- 19 (2) A member who is not a law enforcement officer or an eligible former
20 law enforcement officer shall receive a service retirement allowance
21 computed as follows:
- 22 a. If the member's service retirement date occurs on or after his
23 65th birthday upon the completion of five years of membership
24 service or after the completion of 30 years of creditable service
25 or on or after his 60th birthday upon the completion of 25 years
26 of creditable service, the allowance shall be equal to one and
27 eighty hundredths percent (1.80%) of his average final
28 compensation, multiplied by the number of years of creditable
29 service.
- 30 b. If the member's service retirement date occurs after his 60th
31 birthday and before his 65th birthday and prior to his completion
32 of 25 years or more of creditable service, his retirement
33 allowance shall be computed as in G.S. 135-5(b17)(2)a. but shall
34 be reduced by one-quarter of one percent ($1/4$ of 1%) thereof for
35 each month by which his retirement date precedes the first day of
36 the month coincident with or next following his 65th birthday.
- 37 c. If the member's early service retirement date occurs on or after
38 his 50th birthday and before his 60th birthday and after
39 completion of 20 years of creditable service but prior to the
40 completion of 30 years of creditable service, his early service
41 retirement allowance shall be equal to the greater of:
- 42 1. The service retirement allowance as computed under G.S.
43 135-5(b17)(2)a. but reduced by the sum of five-twelfths of

1 one percent (5/12 of 1%) thereof for each month by which
2 his retirement date precedes the first day of the month
3 coincident with or next following the month the member
4 would have attained his 60th birthday, plus one-quarter of
5 one percent (1/4 of 1%) thereof for each month by which
6 his 60th birthday precedes the first day of the month
7 coincident with or next following his 65th birthday; or

8 2. The service retirement allowance as computed under G.S.
9 135-5(b17)(2)a. reduced by five percent (5%) times the
10 difference between 30 years and his creditable service at
11 retirement; or

12 3. If the member's creditable service commenced prior to
13 July 1, 1994, the service retirement allowance equal to the
14 actuarial equivalent of the allowance payable at the age of
15 60 years as computed in G.S. 135-5(b17)(2)b.

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

19 Section 2. G.S. 135-5 is amended by adding a new subsection to read:

20 "(b18) Service Retirement Allowance of Members Retiring on or After July 1,
21 1999. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
22 or after July 1, 1999, a member shall receive the following service retirement allowance.

23 (1) A member who is a law enforcement officer or an eligible former law
24 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 55th birthday, and completion of five years of creditable service
28 as a law enforcement officer, or after the completion of 25 years
29 of creditable service, the allowance shall be equal to one and
30 eighty hundredths percent (1.80%) of his average final
31 compensation, multiplied by the number of years of his
32 creditable service.

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

38 1. The service retirement allowance payable under G.S. 135-
39 5(b18)(1)a. reduced by one-third of one percent (1/3 of
40 1%) thereof for each month by which his retirement date
41 precedes the first day of the month coincident with or next
42 following the month the member would have attained his
43 55th birthday; or

- 1 2. The service retirement allowance as computed under G.S.
2 135-5(b18)(1)a. reduced by five percent (5%) times the
3 difference between 25 years and his creditable service at
4 retirement.
- 5 (2) A member who is not a law enforcement officer or an eligible former
6 law enforcement officer shall receive a service retirement allowance
7 computed as follows:
- 8 a. If the member's service retirement date occurs on or after his
9 65th birthday upon the completion of five years of membership
10 service or after the completion of 30 years of creditable service
11 or on or after his 60th birthday upon the completion of 25 years
12 of creditable service, the allowance shall be equal to one and
13 eighty hundredths percent (1.80%) of his average final
14 compensation, multiplied by the number of years of creditable
15 service.
- 16 b. If the member's service retirement date occurs after his 60th
17 birthday and before his 65th birthday and prior to his completion
18 of 25 years or more of creditable service, his retirement
19 allowance shall be computed as in G.S. 135-5(b18)(2)a. but shall
20 be reduced by one-quarter of one percent (1/4 of 1%) thereof for
21 each month by which his retirement date precedes the first day of
22 the month coincident with or next following his 65th birthday.
- 23 c. If the member's early service retirement date occurs on or after
24 his 50th birthday and before his 60th birthday and after
25 completion of 20 years of creditable service but prior to the
26 completion of 30 years of creditable service, his early service
27 retirement allowance shall be equal to the greater of:
- 28 1. The service retirement allowance as computed under G.S.
29 135-5(b18)(2)a. but reduced by the sum of five-twelfths of
30 one percent (5/12 of 1%) thereof for each month by which
31 his retirement date precedes the first day of the month
32 coincident with or next following the month the member
33 would have attained his 60th birthday, plus one-quarter of
34 one percent (1/4 of 1%) thereof for each month by which
35 his 60th birthday precedes the first day of the month
36 coincident with or next following his 65th birthday; or
- 37 2. The service retirement allowance as computed under G.S.
38 135-5(b18)(2)a. reduced by five percent (5%) times the
39 difference between 30 years and his creditable service at
40 retirement; or
- 41 3. If the member's creditable service commenced prior to
42 July 1, 1994, the service retirement allowance equal to the

1 actuarial equivalent of the allowance payable at the age of
2 60 years as computed in G.S. 135-5(b17)(2)b.

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

6 Section 3. G.S. 135-5(m) reads as rewritten:

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

- 13 (1) a. The member had attained such age and/or creditable service to be
14 eligible to commence retirement with an early or service retirement
15 allowance, or
16 b. The member had obtained 20 years of creditable service in which
17 case the retirement allowance shall be computed in accordance
18 with ~~G.S. 135-5(b17)(1)b.~~ G.S. 135-5(b18)(1)b. or ~~G.S. 135-~~
19 ~~5(b17)(2)e.,~~ G.S. 135-5(b18)(2)c., notwithstanding the
20 requirement of obtaining age 50.
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 member
31 had made application in writing prior to the date of death, provided that the date of death
32 occurred prior to or within 60 days after notification of the cost to make the purchase.
33 The term "in service" as used in this subsection includes a member in receipt of a benefit
34 under the Disability Income Plan as provided in Article 6 of this Chapter."

35 Section 4. G.S. 128-27(b17) reads as rewritten:

36 "(b17) Service Retirement Allowance of Member Retiring on or After July 1,
37 ~~1998-1999, but before July 1, 1999.~~ – Upon retirement from service in accordance with
38 subsection (a) or (a1) above, on or after July 1, 1998, but before July 1, 1999, a member
39 shall receive the following service retirement allowance:

- 40 (1) A member who is a law enforcement officer or an eligible former law
41 enforcement officer shall receive a service retirement allowance
42 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 seventy-seven hundredths percent (1.77%) 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 years
10 of creditable service as a law enforcement officer and prior to the
11 completion of 30 years of creditable service, his retirement
12 allowance shall be equal to the greater of:
- 13 1. The service retirement allowance payable under G.S. 128-
14 27(b17)(1)a. reduced by one-third of one percent ($1/3$ of
15 1%) thereof for each month by which his retirement date
16 precedes the first day of the month coincident with or next
17 following the month the member would have attained his
18 55th birthday; or
- 19 2. The service retirement allowance as computed under G.S.
20 128-27(b17)(1)a. reduced by five percent (5%) times the
21 difference between 30 years and his creditable service at
22 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 seventy-seven hundredths percent (1.77%) 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 completion
36 of 25 years or more of creditable service, his retirement
37 allowance shall be computed as in G.S. 128-27(b17)(2)a. but
38 shall be reduced by one-quarter of one percent ($1/4$ of 1%)
39 thereof for each month by which his retirement date precedes the
40 first day of the month coincident with or next following his 65th
41 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

1 completion of 20 years of creditable service but prior to the
2 completion of 30 years of creditable service, his early service
3 retirement allowance shall be equal to the greater of:

- 4 1. The service retirement allowance as computed under G.S.
5 128-27(b17)(2)a. but reduced by the sum of five-twelfths
6 of one percent (5/12 of 1%) thereof for each month by
7 which his retirement date precedes the first day of the
8 month coincident with or next following the month the
9 member would have attained his 60th birthday, plus one-
10 quarter of one percent (1/4 of 1%) thereof for each month
11 by which his 60th birthday precedes the first day of the
12 month coincident with or next following his 65th birthday;
13 or
- 14 2. The service retirement allowance as computed under G.S.
15 128-27(b17)(2)a. reduced by five percent (5%) times the
16 difference between 30 years and his creditable service at
17 retirement; or
- 18 3. If the member's creditable service commenced prior to
19 July 1, 1995, the service retirement allowance equal to the
20 actuarial equivalent of the allowance payable at the age of
21 60 years as computed in G.S. 128-27(b17)(2)b.

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

25 Section 5. G.S. 128-27 is amended by adding a new subsection to read:

26 "(b18) Service Retirement Allowance of Member Retiring on or After July 1,
27 1999. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
28 or after July 1, 1999, a member shall receive the following service retirement allowance:

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

- 32 a. If the member's service retirement date occurs on or after his
33 55th birthday and completion of five years of creditable service
34 as a law enforcement officer, or after the completion of 25 years
35 of creditable service, the allowance shall be equal to one and
36 seventy-seven hundredths percent (1.77%) of his average final
37 compensation, multiplied by the number of years of his
38 creditable service.

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

- 1 1. The service retirement allowance payable under G.S. 128-
2 27(b18)(1)a. reduced by one-third of one percent (1/3 of
3 1%) thereof for each month by which his retirement date
4 precedes the first day of the month coincident with or next
5 following the month the member would have attained his
6 55th birthday; or
- 7 2. The service retirement allowance as computed under G.S.
8 128-27(b18)(1)a. reduced by five percent (5%) times the
9 difference between 25 years and his creditable service at
10 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 creditable
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 seventy-seven hundredths percent (1.77%) of 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 completion
24 of 25 years or more of creditable service, his retirement
25 allowance shall be computed as in G.S. 128-27(b18)(2)a. but
26 shall be reduced by one-quarter of one percent (1/4 of 1%)
27 thereof for each month by which his retirement date precedes the
28 first day of the month coincident with or next following his 65th
29 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 G.S.
36 128-27(b18)(2)a. but reduced by the sum of five-twelfths
37 of one percent (5/12 of 1%) thereof for each month by
38 which his retirement date precedes the first day of the
39 month coincident with or next following the month the
40 member would have attained his 60th birthday, plus one-
41 quarter of one percent (1/4 of 1%) thereof for each month
42 by which his 60th birthday precedes the first day of the

1 month coincident with or next following his 65th birthday;
2 or

3 2. The service retirement allowance as computed under G.S.
4 128-27(b18)(2)a. reduced by five percent (5%) times the
5 difference between 30 years and his creditable service at
6 retirement; or

7 3. If the member's creditable service commenced prior to
8 July 1, 1995, the service retirement allowance equal to the
9 actuarial equivalent of the allowance payable at the age of
10 60 years as computed in G.S. 128-27(b18)(2)b.

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

14 Section 6. G.S. 128-27(m) reads as rewritten:

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

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

24 b. The member had obtained 20 years of creditable service in which
25 case the retirement allowance shall be computed in accordance
26 with ~~G.S. 128-27(b17)(1)b.~~ G.S. 128-27(b18)(1)b. or ~~G.S. 128-~~
27 ~~27(b17)(2)c.,~~ G.S. 128-27(b18)(2)c., notwithstanding the
28 requirement of obtaining age 50.

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

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

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

41 Section 7. G.S. 143-166.41 reads as rewritten:

42 "**§ 143-166.41. Special separation allowance.**

1 (a) Notwithstanding any other provision of law, every sworn law-enforcement
2 officer as defined by G.S. 135-1(11b) or G.S. 143- 166.30(a)(4) employed by a State
3 department, agency, or institution who qualifies under this section shall receive,
4 beginning on the last day of the month in which he retires on a basic service retirement
5 under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance
6 equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate
7 of compensation most recently applicable to him for each year of creditable service. The
8 allowance shall be paid in 12 equal installments on the last day of each month. To qualify
9 for the 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; and
14 (3) Have completed at least five years of continuous service as a law
15 enforcement officer as herein defined immediately preceding a service
16 retirement. Any break in the continuous service required by this
17 subsection because of disability retirement or disability salary
18 continuation benefits shall not adversely affect an officer's qualification
19 to receive the allowance, provided the officer returns to service within
20 45 days after the disability benefits cease and is otherwise qualified to
21 receive the allowance.

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

25 (c) Payment to a retired officer under the provisions of this section shall cease at
26 the death of the individual or on the last day of the month in which he attains 62 years of
27 age or upon the first day of reemployment by any State department, agency, or
28 institution.

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

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

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

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

43 Section 8. This act becomes effective July 1, 1999.