

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

S

1

SENATE BILL 396

Short Title: Special Separation Allowance for Firefighters. (Public)

Sponsors: Senators Tarte and Horner (Primary Sponsors).

Referred to: Rules and Operations of the Senate

March 28, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE A SPECIAL SEPARATION ALLOWANCE FOR STATE AND
3 LOCAL FIREFIGHTERS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 143 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 12L.

8 "Special Separation Allowances for State and Local Firefighters.

9 **"§ 143-166.90. Special separation allowances for State firefighters.**

10 (a) As used in this section, the term "firefighter" shall mean a full-time paid employee
11 of any State department, agency, or institution actively serving in a position with assigned
12 primary duties and responsibilities for the prevention, detection, and suppression of fire.

13 (b) Every firefighter who qualifies under this section shall receive, beginning in the
14 month in which the firefighter retires on a basic service retirement under the provisions of
15 G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%)
16 of the annual equivalent of the base rate of compensation most recently applicable to the
17 firefighter for each year of creditable service. The allowance shall be paid in equal installments
18 on the payroll frequency used by the employer. To qualify for the allowance, the firefighter
19 shall meet all of the following criteria:

20 (1) The firefighter has either (i) completed 30 or more years of creditable
21 service or (ii) attained 60 years of age and completed 25 or more years of
22 creditable service.

23 (2) The firefighter has not attained 62 years of age.

24 (3) The firefighter has completed at least five years of continuous service
25 rendered on or after July 1, 2017, as a firefighter immediately preceding a
26 service retirement. Any break in the continuous service required by this
27 subdivision because of disability retirement or disability salary continuation
28 benefits shall not adversely affect a firefighter's qualification to receive the
29 allowance, provided the firefighter returns to service within 45 days after the
30 disability benefits cease and is otherwise qualified to receive the allowance.

31 (c) As used in this section, "creditable service" means the service for which credit is
32 allowed under the retirement system of which the firefighter is a member, provided that at least
33 fifty percent (50%) of the service is as a firefighter.

34 (d) Payment to a retired firefighter under the provisions of this section shall cease upon
35 the earlier of following:

36 (1) The death of the firefighter.



- 1 (2) The last day of the month in which the firefighter attains 62 years of age.
2 (3) The first day of reemployment by any State department, agency, or
3 institution, except that this subdivision does not apply to a firefighter
4 returning to State employment in a position exempt from the North Carolina
5 Human Resources Act in an agency other than the agency from which that
6 firefighter retired.

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

11 (f) The head of each State department, agency, or institution shall determine the
12 eligibility of employees for the benefits provided under this section.

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

17 (h) The head of each State department, agency, or institution shall make the payments
18 set forth in subsection (b) of this section to those persons certified under subsection (f) of this
19 section from funds available in subsection (g) of this section.

20 **"§ 143-166.92. Special separation allowances for local firefighters.**

21 (a) As used in this section, the term "firefighter" means a person (i) who is a full-time
22 paid employee of an employer that participates in the Local Governmental Employees'
23 Retirement System, or an equivalent locally sponsored retirement plan, and maintains a fire
24 department certified by the North Carolina Department of Insurance and (ii) who is actively
25 serving in a position with assigned primary duties and responsibilities for the prevention,
26 detection, and suppression of fire.

27 (b) Every firefighter who qualifies under this section shall receive an annual separation
28 allowance beginning in the month in which the firefighter retires on a basic service retirement
29 under the provisions of G.S. 128-27(a) or a locally sponsored retirement plan. The annual
30 separation allowance shall be equal to eighty-five hundredths percent (0.85%) of the annual
31 equivalent of the base rate of compensation most recently applicable to the firefighter for each
32 year of creditable service. The allowance shall be paid in equal installments on the payroll
33 frequency used by the employer. To qualify for the allowance, the firefighter shall meet all of
34 the following criteria:

35 (1) The firefighter has either (i) completed 30 or more years of creditable
36 service or (ii) attained 60 years of age and completed 25 or more years of
37 creditable service.

38 (2) The firefighter has not attained 62 years of age.

39 (3) The firefighter has completed at least five years of continuous service
40 rendered on or after July 1, 2017, as a firefighter immediately preceding a
41 service retirement. Any break in the continuous service required by this
42 subdivision because of disability retirement or disability salary continuation
43 benefits shall not adversely affect a firefighter's qualification to receive the
44 allowance, provided the firefighter returns to service within 45 days after the
45 disability benefits cease and is otherwise qualified to receive the allowance.

46 (c) As used in this section, "creditable service" means the service for which credit is
47 allowed under the retirement system of which the firefighter is a member, provided that at least
48 fifty percent (50%) of the service is as a firefighter.

49 (d) Payment to a retired firefighter under the provisions of this section shall cease upon
50 the earlier of following:

51 (1) The death of the firefighter.

1 (2) The last day of the month in which the firefighter attains 62 years of age.

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

4 Notwithstanding the provisions of subdivision (3) of this subsection, a local government
5 employer may employ retired firefighters in a public safety position in a capacity not requiring
6 participation in the Local Governmental Employees' Retirement System or an equivalent
7 locally sponsored retirement plan, and doing so shall not cause payment to cease to those
8 firefighters under the provisions of this section.

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

13 (f) The governing body of each local employer shall determine the eligibility of
14 employees for the benefits provided under this section.

15 (g) The governing body of each local employer shall make the payments set forth in
16 subsection (b) of this section to those persons certified under subsection (f) of this section from
17 funds available."

18 **SECTION 2.** This act is effective when it becomes law.