**§ 135-58. Service retirement benefits.**

(a) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 before July 1, 1990, after he either has attained his sixty-fifth birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2) and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three fourths of his final compensation:

(1) Four percent (4%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and one-half percent (3 1/2%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;

(3) Three percent (3%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court.

(a1) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 on or after July 1, 1990, but before July 1, 1999, after he either has attained his 65th birthday or has completed 24 years or more of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be computed as the sum of (1), (2), and (3) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which he is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System or the North Carolina Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of his final compensation:

(1) Four and two-hundredths percent (4.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the superior court or as administrative officer of the courts;

(3) Three and two-hundredths percent (3.02%) of his final compensation, multiplied by the number of years of his creditable service rendered as a judge of the district court, district attorney, or clerk of superior court.

(a2) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 1999, but before July 1, 2001, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the

allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56.

(a3) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2001, but before January 1, 2004, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) following, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment) would total three-fourths of the member's final compensation:

(1) Four and two-hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two-hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service, rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System to this System as provided in G.S. 135-56.

(a4) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after January 1, 2004, but before July 1, 2007, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, or clerk of superior court;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56.

(a5) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2007, but before July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime, the amount of which shall be computed as the sum of the amounts in subdivisions (1), (2), (3), (4), and (5) of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System (prior in any case to any reduction for early retirement or for an optional mode of payment), would total three-fourths of the member's final compensation:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court or judge of the Court of Appeals;

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court or as Administrative Officer of the Courts;

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, or public defender;

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred from the Local Governmental Employees' Retirement System to this System as provided in G.S. 135-56; and

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System as provided in G.S. 135-56.

(a6) Any member who retires under the provisions of G.S. 135-57(a) or G.S. 135-57(c) on or after July 1, 2008, after the member has either attained the member's 65th birthday or has completed 24 years or more of creditable service, shall receive an annual retirement allowance, payable monthly. The payments shall commence on the effective date of the member's retirement and shall be continued on the first day of each month thereafter during the member's lifetime. The amount of the monthly retirement allowance payments shall be computed as the sum of the applicable amounts contained in the subdivisions of this subsection, provided that in no event shall the annual allowance payable to any member be greater than an amount which, when added to the allowance, if any, to which the member is entitled under the Teachers' and State Employees' Retirement System, the Legislative Retirement System, or the Local Governmental Employees' Retirement System, prior in any case to any reduction for early retirement or for an optional mode of payment, would total three-fourths of the member's final compensation. The following amounts shall be used for the purposes of calculations under this subsection:

(1) Four and two hundredths percent (4.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a justice of the Supreme Court, a judge of the Court of Appeals, or the Director of the Administrative Office of the Courts.

(2) Three and fifty-two hundredths percent (3.52%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the superior court.

(3) Three and two hundredths percent (3.02%) of the member's final compensation, multiplied by the number of years of creditable service rendered as a judge of the district court, district attorney, clerk of superior court, public defender, or the Director of Indigent Defense Services.

(4) A service retirement allowance computed in accordance with the service retirement provisions of Article 3 of Chapter 128 of the General Statutes using an average final compensation as defined in G.S. 135-53(2a) and creditable service equal to the number of years of the member's creditable service that was transferred or purchased from the Local Governmental Employees' Retirement System to this System, as provided for under this Article.

(5) A service retirement allowance computed in accordance with the service retirement provisions of Article 1 of this Chapter using an average final compensation as defined in G.S. 135-53(2a) and creditable service, including any sick leave standing to the credit of the member, equal to the number of years of the member's creditable service that was transferred or purchased from the Teachers' and State Employees' Retirement System or the Legislative Retirement System to this System, as provided for under this Article.

(b) Any member who retires under the provisions of subsection (a) or subsection (c) of G.S. 135-57 before he either has attained his sixty-fifth birthday or has completed 24 years of creditable service shall receive an annual retirement allowance, payable monthly, which shall commence on the effective date of his retirement and shall be continued on the first day of each month thereafter during his lifetime, the amount of which shall be determined in the same manner and be subject to the same maximum limitation as provided for in subsection (a) above except that the allowance so computed shall be reduced by one quarter of one percent (1/4 of 1%) thereof for each month by which the member's retirement date precedes the first day of the month coincident with or next following the earlier of

(1) The member's sixty-fifth birthday or

(2) The date the member would have completed 24 years of creditable service if he had been in membership service from his retirement date until such date.

For the sole purpose of determining whether a member has completed the required 24 years of creditable service referred to in this subsection (b) or the date on which he would have completed such period of creditable service if he had remained in membership service, in the case of a member of the Teachers' and State Employees' Retirement System who became a member of this Retirement System under circumstances described in G.S. 135-28.1, and who at the time of his retirement hereunder is in service and has retained his membership in the Teachers' and State Employees' Retirement System as provided for in G.S. 135-28.1, his creditable service shall be taken as the sum of his creditable service hereunder plus the amount of creditable service remaining to his credit in such other system as provided for in G.S. 135-28.1.

(c) The foregoing subsections of this section to the contrary notwithstanding, in no event will the retirement allowance payable at any time to a retired member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-61, be less than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted.

(d) Commencing with the payment for the month of January 1974, the retirement allowance of each retired member of a previous system who was in receipt of a retirement allowance thereunder as of January 1, 1974, shall be paid from the assets of the Retirement System in the same amount as would have been applicable for January 1974, if this Article had not been enacted.

(e) Notwithstanding any other provision to the contrary, in no event will the retirement allowance payable at any time to a retired member who was a member of a previous system immediately prior to January 1, 1974, prior to any reduction of such allowance in accordance with G.S. 135-61, be greater than the retirement allowance to which he would have been entitled under the terms of such previous system if this Article had not been enacted or than the retirement allowance to which he would have been entitled under this Article if he had not been entitled to benefits under the terms of such previous system, whichever is larger.

(f) Notwithstanding any provision of this section or G.S. 135-57 to the contrary, a member in receipt of severance pay from an employer is not eligible to receive a retirement allowance under this Article while in receipt of that severance pay. If, as severance, the member is entitled to receive a lump sum payment based on a certain period of time, such as a number of weeks or months, then the member is not eligible to receive a retirement allowance under this Article for any month, beginning immediately after the member's separation from service to that employer, that includes the time period used to determine the lump sum payment. (1973, c. 640, s. 1; 1977, c. 1120, s. 2; 1983 (Reg. Sess., 1984), c. 1031, ss. 17, 18; c. 1109, ss. 13.14, 13.15; 1985, c. 649, s. 7; 1989 (Reg. Sess., 1990), c. 1077, ss. 6, 7; 1999-237, s. 28.24(d), (e); 2001-424, s. 32.29(a), (b); 2003-284, s. 30.18(g), (h); 2005-276, s. 29.30A(f), (g); 2005-345, s. 42; 2007-323, s. 28.21B(f), (g); 2008-107, s. 26.24(f), (g); 2015-241, s. 30.3(g); 2024-10, s. 14(c); 2024-8, s. 2(c).)