

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 77

Short Title: Increase LEO Retirement.

(Public)

Sponsors: Representatives Fitch; Adams, Allred, Arnold, Blue, Cansler, Grady, Hensley, Hunter, McAllister, Michaux, Sherrill, and Wainwright.

Referred to: Law Enforcement, if favorable, Pensions & Retirement, if favorable, Appropriations.

February 15, 1999

A BILL TO BE ENTITLED

1 AN ACT TO ELIMINATE THE SEPARATION ALLOWANCE FOR LAW
2 ENFORCEMENT OFFICERS AND SUBSTITUTE AN INCREASE IN THE
3 RETIREMENT FORMULA.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-166.41(a) reads as rewritten:

7 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
8 officer as defined by G.S. 135-1(11b) or G.S. 143- 166.30(a)(4) employed by a State
9 department, agency, or institution who qualifies under this ~~section~~-section, and who retires
10 on or before December 31, 1999, shall receive, beginning on the last day of the month in
11 which he retires on a basic service retirement under the provisions of G.S. 135-5(a) or
12 G.S. 143-166(y), an annual separation allowance equal to eighty-five hundredths percent
13 (0.85%) of the annual equivalent of the base rate of compensation most recently
14 applicable to him for each year of creditable service. The allowance shall be paid in 12
15 equal installments on the last day of each month. To qualify for the allowance the officer
16 shall:

- 1 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
2 attained 55 years of age and completed five or more years of creditable
3 service; and
4 (2) Not have attained 62 years of age; and
5 (3) Have completed at least five years of continuous service as a law
6 enforcement officer as herein defined immediately preceding a service
7 retirement. Any break in the continuous service required by this
8 subsection because of disability retirement or disability salary
9 continuation benefits shall not adversely affect an officer's qualification
10 to receive the allowance, provided the officer returns to service within
11 45 days after the disability benefits cease and is otherwise qualified to
12 receive the allowance."

13 Section 2. G.S. 143-166.42 reads as rewritten:

14 **"§ 143-166.42. Special separation allowances for local officers.**

15 On and after January 1, 1987, the provisions of G.S. 143- 166.41 shall apply to all
16 eligible law-enforcement officers as defined by G.S. 128-21(11b) or G.S. 143-
17 166.50(a)(3) who are employed by local government employers, and who retire on or
18 before December 31, 1999, except as may be provided by this section. As to the
19 applicability of the provisions of G.S. 143-166.41 to locally employed officers, the
20 governing body for each unit of local government shall be responsible for making
21 determinations of eligibility for their local officers retired under the provisions of G.S.
22 128-27(a) and for making payments to their eligible officers under the same terms and
23 conditions, other than the source of payment, as apply to each State department, agency,
24 or institution in payments to State officers according to the provisions of G.S. 143-
25 166.41."

26 Section 3. G.S. 135-5(b17) reads as rewritten:

27 "(b17) Service Retirement Allowance of Members Retiring on or After July 1,
28 ~~1997~~1997, but Before January 1, 2000. – Upon retirement from service in accordance
29 with subsection (a) or (a1) above, on or after July 1, 1997, but before January 1, 2000, a
30 member shall receive the following service retirement allowance.

- 31 (1) A member who is a law enforcement officer or an eligible former law
32 enforcement officer shall receive a service retirement allowance
33 computed as follows:
34 a. If the member's service retirement date occurs on or after his
35 55th birthday, and completion of five years of creditable service
36 as a law enforcement officer, or after the completion of 30 years
37 of creditable service, the allowance shall be equal to one and
38 eighty hundredths percent (1.80%) of his average final
39 compensation, multiplied by the number of years of his
40 creditable service.
41 b. If the member's service retirement date occurs on or after his
42 50th birthday and before his 55th birthday with 15 or more years
43 of creditable service as a law enforcement officer and prior to the

1 completion of 30 years of creditable service, his retirement
2 allowance shall be equal to the greater of:

- 3 1. The service retirement allowance payable under G.S. 135-
4 5(b17)(1)a, reduced by one-third of one percent ($1/3$ of
5 1%) thereof for each month by which his retirement date
6 precedes the first day of the month coincident with or next
7 following the month the member would have attained his
8 55th birthday; or
- 9 2. The service retirement allowance as computed under G.S.
10 135-5(b17)(1)a. reduced by five percent (5%) times the
11 difference between 30 years and his creditable service at
12 retirement.

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

1 his 60th birthday precedes the first day of the month
2 coincident with or next following his 65th birthday; or

- 3 2. The service retirement allowance as computed under G.S.
4 135-5(b17)(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, 1994, 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. 135-5(b17)(2)b.

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

14 Section 4. G.S. 135-5 is amended by adding a new subsection to read:

15 "(b18) Service Retirement Allowance of Members Retiring on or After January 1,
16 2000. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
17 or after January 1, 2000, a member shall receive the following service retirement
18 allowance:

- 19 (1) A member who is a law enforcement officer or an eligible former law
20 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 55th birthday, and completion of five years of creditable service
24 as a law enforcement officer, or after the completion of 30 years
25 of creditable service, the allowance shall be equal to two and
26 fifty hundredths percent (2.50%) of his average final
27 compensation, multiplied by the number of years of his
28 creditable service.

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

- 34 1. The service retirement allowance payable under G.S. 135-
35 5(b18)(1)a., reduced by one-third of one percent (1/3 of
36 1%) thereof for each month by which his retirement date
37 precedes the first day of the month coincident with or next
38 following the month the member would have attained his
39 55th birthday; or

- 40 2. The service retirement allowance as computed under G.S.
41 135-5(b18)(1)a., reduced by five percent (5%) times the
42 difference between 30 years and his creditable service at
43 retirement.

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

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

4 Section 5. G.S. 135-5(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 2 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 the
10 following conditions apply:

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

33 Section 6. G.S. 128-27(b17) reads as rewritten:

34 "~~(b17) Service Retirement Allowance of Member Retiring on or After July 1,~~
35 ~~1998, July 1, 1998, but Before January 1, 2000.~~ – Upon retirement from service in
36 accordance with subsection (a) or (a1) above, on or after July 1, 1998, but before January
37 1, 2000, a member shall receive the following service retirement allowance:

- 38 (1) A member who is a law enforcement officer or an eligible former law
39 enforcement officer shall receive a service retirement allowance
40 computed as follows:
- 41 a. If the member's service retirement date occurs on or after his
42 55th birthday and completion of five years of creditable service
43 as a law enforcement officer, or after the completion of 30 years

- 1 of creditable service, the allowance shall be equal to one and
2 seventy-seven hundredths percent (1.77%) of his average final
3 compensation, multiplied by the number of years of his
4 creditable service.
- 5 b. If the member's service retirement date occurs on or after his
6 50th birthday and before his 55th birthday with 15 or more years
7 of creditable service as a law enforcement officer and prior to the
8 completion of 30 years of creditable service, his retirement
9 allowance shall be equal to the greater of:
- 10 1. The service retirement allowance payable under G.S. 128-
11 27(b17)(1)a. reduced by one-third of one percent (1/3 of
12 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 G.S.
17 128-27(b17)(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
21 law enforcement officer shall receive a service retirement allowance
22 computed as follows:
- 23 a. If the member's service retirement date occurs on or after his
24 65th birthday upon the completion of five years of creditable
25 service or after the completion of 30 years of creditable service
26 or on or after his 60th birthday upon the completion of 25 years
27 of creditable service, the allowance shall be equal to one and
28 seventy-seven hundredths percent (1.77%) of average final
29 compensation, multiplied by the number of years of creditable
30 service.
- 31 b. If the member's service retirement date occurs after his 60th
32 birthday and before his 65th birthday and prior to his completion
33 of 25 years or more of creditable service, his retirement
34 allowance shall be computed as in G.S. 128-27(b17)(2)a. but
35 shall be reduced by one-quarter of one percent (1/4 of 1%)
36 thereof for each month by which his retirement date precedes the
37 first day of the month coincident with or next following his 65th
38 birthday.
- 39 c. If the member's early service retirement date occurs on or after
40 his 50th birthday and before his 60th birthday and after
41 completion of 20 years of creditable service but prior to the
42 completion of 30 years of creditable service, his early service
43 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance as computed under G.S.
2 128-27(b17)(2)a. but reduced by the sum of five-twelfths
3 of one percent (5/12 of 1%) thereof for each month by
4 which his retirement date precedes the first day of the
5 month coincident with or next following the month the
6 member would have attained his 60th birthday, plus one-
7 quarter of one percent (1/4 of 1%) thereof for each month
8 by which his 60th birthday precedes the first day of the
9 month coincident with or next following his 65th birthday;
10 or
 - 11 2. The service retirement allowance as computed under G.S.
12 128-27(b17)(2)a. reduced by five percent (5%) times the
13 difference between 30 years and his creditable service at
14 retirement; or
 - 15 3. If the member's creditable service commenced prior to
16 July 1, 1995, the service retirement allowance equal to the
17 actuarial equivalent of the allowance payable at the age of
18 60 years as computed in G.S. 128-27(b17)(2)b.
- 19 d. Notwithstanding the foregoing provisions, any member whose
20 creditable service commenced prior to July 1, 1965, shall not
21 receive less than the benefit provided by G.S. 128-27(b)."

22 Section 7. G.S. 128-27 is amended by adding a new subsection to read:

23 "(b18) Service Retirement Allowance of Member Retiring on or After January 1,
24 2000. – Upon retirement from service in accordance with subsection (a) or (a1) above,
25 on or after January 1, 2000, a member shall receive the following service retirement
26 allowance:

- 27 (1) A member who is a law enforcement officer or an eligible former law
28 enforcement officer shall receive a service retirement allowance
29 computed as follows:
- 30 a. If the member's service retirement date occurs on or after his
31 55th birthday and completion of five years of creditable service
32 as a law enforcement officer, or after the completion of 30 years
33 of creditable service, the allowance shall be equal to two and
34 fifty hundredths percent (2.50%) of his average final
35 compensation, multiplied by the number of years of his
36 creditable service.
 - 37 b. If the member's service retirement date occurs on or after his
38 50th birthday and before his 55th birthday with 15 or more years
39 of creditable service as a law enforcement officer and prior to the
40 completion of 30 years of creditable service, his retirement
41 allowance shall be equal to the greater of:
 - 42 1. The service retirement allowance payable under G.S. 128-
43 27(b18)(1)a., reduced by one-third of one percent (1/3 of

1 1%) thereof for each month by which his retirement date
2 precedes the first day of the month coincident with or next
3 following the month the member would have attained his
4 55th birthday; or

5 2. The service retirement allowance as computed under G.S.
6 128-27(b18)(1)a., reduced by five percent (5%) times the
7 difference between 30 years and his creditable service at
8 retirement.

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

12 a. If the member's service retirement date occurs on or after his
13 65th birthday upon the completion of five years of creditable
14 service or after the completion of 30 years of creditable service
15 or on or after his 60th birthday upon the completion of 25 years
16 of creditable service, the allowance shall be equal to one and
17 seventy-seven hundredths percent (1.77%) of average final
18 compensation, multiplied by the number of years of creditable
19 service.

20 b. If the member's service retirement date occurs after his 60th
21 birthday and before his 65th birthday and prior to his completion
22 of 25 years or more of creditable service, his retirement
23 allowance shall be computed as in G.S. 128-27(b18)(2)a., but
24 shall be reduced by one-quarter of one percent (1/4 of 1%)
25 thereof for each month by which his retirement date precedes the
26 first day of the month coincident with or next following his 65th
27 birthday.

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

33 1. The service retirement allowance as computed under G.S.
34 128-27(b18)(2)a., but reduced by the sum of five-twelfths
35 of one percent (5/12 of 1%) thereof for each month by
36 which his retirement date precedes the first day of the
37 month coincident with or next following the month the
38 member would have attained his 60th birthday, plus one-
39 quarter of one percent (1/4 of 1%) thereof for each month
40 by which his 60th birthday precedes the first day of the
41 month coincident with or next following his 65th birthday;
42 or

1 2. The service retirement allowance as computed under G.S.
2 128-27(b18)(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
6 July 1, 1995, the service retirement allowance equal to the
7 actuarial equivalent of the allowance payable at the age of
8 60 years as computed in G.S. 128-27(b18)(2)b.

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

12 Section 8. G.S. 128-27(m) reads as rewritten:

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

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

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

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

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

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

39 Section 9. This act becomes effective January 1, 2000.