

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE BILL 1359

Short Title: Durham/25-Year LEO Retirement.

(Local)

Sponsors: Senator Lucas.

Referred to: State Government, Local Government, and Veterans' Affairs.

May 27, 2004

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE A LOCAL OPTION FOR DURHAM COUNTY TO ALLOW ITS LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS OF THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF SERVICE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 128-27(b21) reads as rewritten:

"(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003-2003, but Before July 1, 2004. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2004, a member shall receive the following service retirement allowance:

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

a. If the member's service retirement date occurs on or after his 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 30 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of his average final compensation, multiplied by the number of years of his creditable service.

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

1. The service retirement allowance payable under G.S. 128-27(b21)(1)a. reduced by one-third of one

- 1 percent (1/3 of 1%) thereof for each month by which his
2 retirement date precedes the first day of the month
3 coincident with or next following the month the member
4 would have attained his 55th birthday;
- 5 2. The service retirement allowance as computed under
6 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
7 times the difference between 30 years and his creditable
8 service at 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 eighty-five hundredths percent (1.85%) 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
22 completion of 25 years or more of creditable service, his
23 retirement allowance shall be computed as in
24 G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of
25 one percent (1/4 of 1%) thereof for each month by which his
26 retirement date precedes the first day of the month coincident
27 with or next following his 65th 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
34 G.S. 128-27(b21)(2)a. but reduced by the sum of
35 five-twelfths of one percent (5/12 of 1%) thereof for
36 each month by which his retirement date precedes the
37 first day of the month coincident with or next following
38 the month the member would have attained his 60th
39 birthday, plus one-quarter of one percent (1/4 of 1%)
40 thereof for each month by which his 60th birthday
41 precedes the first day of the month coincident with or
42 next following his 65th birthday; or
- 43 2. The service retirement allowance as computed under
44 G.S. 128-27(b21)(2)a. reduced by five percent (5%)

- 1 times the difference between 30 years and his creditable
2 service at retirement; or
- 3 3. If the member's creditable service commenced prior to
4 July 1, 1995, the service retirement allowance equal to
5 the actuarial equivalent of the allowance payable at the
6 age of 60 years as computed in G.S. 128-27(b21)(2)b.
- 7 d. Notwithstanding the foregoing provisions, any member whose
8 creditable service commenced prior to July 1, 1965, shall not
9 receive less than the benefit provided by G.S. 128-27(b)."

10 **SECTION 2.** G.S. 128-27 is amended by adding a new subsection to read:

11 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2004.
12 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
13 after July 1, 2004, a member shall receive the following service retirement allowance:

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

17 a. If the member's service retirement date occurs on or after his
18 55th birthday and completion of five years of creditable service
19 as a law enforcement officer, or after the completion of 25 years
20 of creditable service, the allowance shall be equal to one and
21 eighty-five hundredths percent (1.85%) of his average final
22 compensation, multiplied by the number of years of his
23 creditable service.

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

29 1. The service retirement allowance payable under
30 G.S. 128-27(b22)(1)a. reduced by one-third of one
31 percent (1/3 of 1%) thereof for each month by which his
32 retirement date precedes the first day of the month
33 coincident with or next following the month the member
34 would have attained his 55th birthday;

35 2. The service retirement allowance as computed under
36 G.S. 128-27(b22)(1)a. reduced by five percent (5%)
37 times the difference between 25 years and his creditable
38 service at retirement.

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

42 a. If the member's service retirement date occurs on or after his
43 65th birthday upon the completion of five years of creditable
44 service or after the completion of 30 years of creditable service

1 or on or after his 60th birthday upon the completion of 25 years
2 of creditable service, the allowance shall be equal to one and
3 eighty-five hundredths percent (1.85%) of average final
4 compensation, multiplied by the number of years of creditable
5 service.

6 b. If the member's service retirement date occurs after his 60th
7 birthday and before his 65th birthday and prior to his
8 completion of 25 years or more of creditable service, his
9 retirement allowance shall be computed as in
10 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
11 one percent (1/4 of 1%) thereof for each month by which his
12 retirement date precedes the first day of the month coincident
13 with or next following his 65th birthday.

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

19 1. The service retirement allowance as computed under
20 G.S. 128-27(b22)(2)a. but reduced by the sum of
21 five-twelfths of one percent (5/12 of 1%) thereof for
22 each month by which his retirement date precedes the
23 first day of the month coincident with or next following
24 the month the member would have attained his 60th
25 birthday, plus one-quarter of one percent (1/4 of 1%)
26 thereof for each month by which his 60th birthday
27 precedes the first day of the month coincident with or
28 next following his 65th birthday; or

29 2. The service retirement allowance as computed under
30 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
31 times the difference between 30 years and his creditable
32 service at retirement; or

33 3. If the member's creditable service commenced prior to
34 July 1, 1995, the service retirement allowance equal to
35 the actuarial equivalent of the allowance payable at the
36 age of 60 years as computed in G.S. 128-27(b22)(2)b.

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

40 **SECTION 3.** G.S. 128-27(m) reads as rewritten:

41 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
42 principal beneficiary designated to receive a return of accumulated contributions shall
43 have the right to elect to receive in lieu thereof the reduced retirement allowance
44 provided by Option two of subsection (g) above computed by assuming that the member

1 had retired on the first day of the month following the date of his death, provided that all
2 three of the following conditions apply:

- 3 (1) a. The member had attained such age and/or creditable service to
4 be eligible to commence retirement with an early or service
5 retirement allowance, or
6 b. The member had obtained 20 years of creditable service in
7 which case the retirement allowance shall be computed in
8 accordance with ~~G.S. 128-27(b21)(1)b.~~ or
9 ~~G.S. 128-27(b21)(2)c.,~~ G.S. 128-27(b22)(1)b. or
10 G.S. 128-27(b22)(2)c. notwithstanding the requirement of
11 obtaining age 50, or
12 c. The member had not commenced to receive a retirement
13 allowance as provided under this Chapter.
- 14 (2) The member had designated as the principal beneficiary to receive a
15 return of his accumulated contributions one and only one person who
16 is living at the time of his death.
- 17 (3) The member had not instructed the Board of Trustees in writing that he
18 did not wish the provisions of this subsection apply.

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

27 **SECTION 4.** This act applies only to Durham County.

28 **SECTION 5.** This act becomes effective July 1, 2004.