

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 2350

Short Title: Law Enforcement 25-Year Retirement. (Public)

Sponsors: Representatives McLawhorn, Bell, Spear, R. Warren (Primary Sponsors); Barnhart, Blue, Boylan, Brisson, Cotham, Current, Faison, Glazier, Gulley, Hall, Hughes, Justus, Martin, McComas, Pate, Ross, Tarleton, Tillis, Wainwright, Walker, Weiss, and Wray.

Referred to: Pensions and Retirement, if favorable, Appropriations.

May 21, 2008

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR LAW ENFORCEMENT OFFICERS WHO ARE
2 MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
3 SYSTEM OR THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
4 SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER REACHING
5 AGE FIFTY AND COMPLETING TWENTY-FIVE YEARS OF SERVICE.
6

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 135-5(b19) reads as rewritten:

9 "~~(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2002-~~
10 ~~2002, but Before July 1, 2008.~~ – Upon retirement from service in accordance with
11 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2008, a member
12 shall receive the following service retirement allowance:

13 (1) A member who is a law enforcement officer or an eligible former law
14 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 55th birthday, and completion of five years of creditable service
18 as a law enforcement officer, or after the completion of 30 years
19 of creditable service, the allowance shall be equal to one and
20 eighty-two hundredths percent (1.82%) of his average final
21 compensation, multiplied by the number of years of his
22 creditable service.

23 b. If the member's service retirement date occurs on or after his
24 50th birthday and before his 55th birthday with 15 or more
25 years of creditable service as a law enforcement officer and

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

- 3 1. The service retirement allowance payable under
4 G.S. 135-5(b19)(1)a. reduced by one-third of one percent
5 (1/3 of 1%) thereof for each month by which his
6 retirement date precedes the first day of the month
7 coincident with or next following the month the member
8 would have attained his 55th birthday; or
- 9 2. The service retirement allowance as computed under
10 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times
11 the difference between 30 years and his creditable
12 service at 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-two hundredths percent (1.82%) 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
26 completion of 25 years or more of creditable service, his
27 retirement allowance shall be computed as in
28 G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one
29 percent (1/4 of 1%) thereof for each month by which his
30 retirement date precedes the first day of the month coincident
31 with or next following his 65th birthday.
- 32 c. If the member's early service retirement date occurs on or after
33 his 50th birthday and before his 60th birthday and after
34 completion of 20 years of creditable service but prior to the
35 completion of 30 years of creditable service, his early service
36 retirement allowance shall be equal to the greater of:
 - 37 1. The service retirement allowance as computed under
38 G.S. 135-5(b19)(2)a. but reduced by the sum of
39 five-twelfths of one percent (5/12 of 1%) thereof for
40 each month by which his retirement date precedes the
41 first day of the month coincident with or next following
42 the month the member would have attained his 60th
43 birthday, plus one-quarter of one percent (1/4 of 1%)
44 thereof for each month by which his 60th birthday

- 1 precedes the first day of the month coincident with or
2 next following his 65th birthday; or
3 2. The service retirement allowance as computed under
4 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times
5 the difference between 30 years and his creditable
6 service at retirement; or
7 3. If the member's creditable service commenced prior to
8 July 1, 1994, the service retirement allowance equal to
9 the actuarial equivalent of the allowance payable at the
10 age of 60 years as computed in G.S. 135-5(b19)(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 2.** G.S. 135-5 is amended by adding a new subsection to read:

15 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2008.
16 – Upon retirement from service in accordance with subsection (a) or (a1) of this section,
17 on or after July 1, 2008, 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 on or after his 50th birthday and
25 after the completion of 25 years of creditable service, the
26 allowance shall be equal to one and eighty-two hundredths
27 percent (1.82%) of his average final compensation, multiplied
28 by the number of years of his 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
31 years of creditable service as a law enforcement officer and
32 prior to the completion of 25 years of creditable service, his
33 retirement allowance shall be equal to the greater of:
34 1. The service retirement allowance payable under
35 G.S. 135-5(b20)(1)a. reduced by one-third of one percent
36 (1/3 of 1%) thereof for each month by which his
37 retirement date precedes the first day of the month
38 coincident with or next following the month the member
39 would have attained his 55th birthday; or
40 2. The service retirement allowance as computed under
41 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times
42 the difference between 25 years and his creditable
43 service at 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-two hundredths percent (1.82%) 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
14 completion of 25 years or more of creditable service, his
15 retirement allowance shall be computed as in
16 G.S. 135-5(b20)(2)a. but shall be reduced by one-quarter of one
17 percent (¼ of 1%) thereof for each month by which his
18 retirement date precedes the first day of the month coincident
19 with or next following his 65th birthday.

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

25 1. The service retirement allowance as computed under
26 G.S. 135-5(b20)(2)a. but reduced by the sum of
27 five-twelfths of one percent (5/12 of 1%) thereof for
28 each month by which his retirement date precedes the
29 first day of the month coincident with or next following
30 the month the member would have attained his 60th
31 birthday, plus one-quarter of one percent (¼ of 1%)
32 thereof for each month by which his 60th birthday
33 precedes the first day of the month coincident with or
34 next following his 65th birthday; or

35 2. The service retirement allowance as computed under
36 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
37 the difference between 30 years and his creditable
38 service at retirement; or

39 3. If the member's creditable service commenced prior to
40 July 1, 1994, the service retirement allowance equal to
41 the actuarial equivalent of the allowance payable at the
42 age of 60 years as computed in G.S. 135-5(b20)(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 3.** 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
10 the following conditions apply:

- 11 (1) a. The member had attained such age and/or creditable service to
12 be eligible to commence retirement with an early or service
13 retirement allowance,
14 b. The member had obtained 20 years of creditable service in
15 which case the retirement allowance shall be computed in
16 accordance with ~~G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c.,~~
17 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding
18 the requirement of obtaining age 50, or
19 c. The member had not commenced to receive a retirement
20 allowance as provided under this Chapter.
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
31 member had made application in writing prior to the date of death, provided that the
32 date of death occurred prior to or within 60 days after notification of the cost to make
33 the purchase. The term "in service" as used in this subsection includes a member in
34 receipt of a benefit under the Disability Income Plan as provided in Article 6 of this
35 Chapter.

36 Notwithstanding the foregoing, a member who is in receipt of Workers'
37 Compensation during the period for which the member would have otherwise been
38 eligible to receive short-term benefits, as provided in G.S. 135-105, and who dies on or
39 after 181 days from the last day of the member's actual service but on or before the date
40 the benefits as provided in G.S. 135-105 would have ended, shall be considered in
41 service at the time of the member's death for the purpose of this benefit."

42 **SECTION 4.** G.S. 143-166.41(a) reads as rewritten:

43 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
44 officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State

1 department, agency, or institution who qualifies under this section shall receive,
2 beginning in the month in which he retires on a basic service retirement under the
3 provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to
4 eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of
5 compensation most recently applicable to him for each year of creditable service. The
6 allowance shall be paid in equal installments on the payroll frequency used by the
7 employer. To qualify for the allowance the officer shall:

- 8 (1) Have (i) attained 50 years of age and completed 30 25 or more years of
9 creditable service or, (ii) have attained 55 years of age and completed
10 five or more years of creditable service; and
- 11 (2) Not have attained 62 years of age; and
- 12 (3) Have completed at least five years of continuous service as a law
13 enforcement officer as herein defined immediately preceding a service
14 retirement. Any break in the continuous service required by this
15 subsection because of disability retirement or disability salary
16 continuation benefits shall not adversely affect an officer's
17 qualification to receive the allowance, provided the officer returns to
18 service within 45 days after the disability benefits cease and is
19 otherwise qualified to receive the allowance."

20 **SECTION 5.** G.S. 128-27 reads as rewritten:

21 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, ~~2003.~~
22 2003, but Before July 1, 2008. – Upon retirement from service in accordance with
23 subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2008, a member
24 shall receive the following service retirement allowance:

- 25 (1) A member who is a law enforcement officer or an eligible former law
26 enforcement officer shall receive a service retirement allowance
27 computed as follows:
 - 28 a. If the member's service retirement date occurs on or after his
29 55th birthday and completion of five years of creditable service
30 as a law enforcement officer, or after the completion of 30 years
31 of creditable service, the allowance shall be equal to one and
32 eighty-five hundredths percent (1.85%) of his average final
33 compensation, multiplied by the number of years of his
34 creditable service.
 - 35 b. If the member's service retirement date occurs on or after his
36 50th birthday and before his 55th birthday with 15 or more
37 years of creditable service as a law enforcement officer and
38 prior to the completion of 30 years of creditable service, his
39 retirement allowance shall be equal to the greater of:
 - 40 1. The service retirement allowance payable under
41 G.S. 128-27(b21)(1)a. reduced by one-third of one
42 percent (1/3 of 1%) thereof for each month by which his
43 retirement date precedes the first day of the month

- 1 coincident with or next following the month the member
2 would have attained his 55th birthday;
- 3 2. The service retirement allowance as computed under
4 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
5 times the difference between 30 years and his creditable
6 service at retirement.
- 7 (2) A member who is not a law enforcement officer or an eligible former
8 law enforcement officer shall receive a service retirement allowance
9 computed as follows:
- 10 a. If the member's service retirement date occurs on or after his
11 65th birthday upon the completion of five years of creditable
12 service or after the completion of 30 years of creditable service
13 or on or after his 60th birthday upon the completion of 25 years
14 of creditable service, the allowance shall be equal to one and
15 eighty-five hundredths percent (1.85%) of average final
16 compensation, multiplied by the number of years of creditable
17 service.
- 18 b. If the member's service retirement date occurs after his 60th
19 birthday and before his 65th birthday and prior to his
20 completion of 25 years or more of creditable service, his
21 retirement allowance shall be computed as in
22 G.S. 128-27(b21)(2)a. but shall be reduced by one-quarter of
23 one percent ($\frac{1}{4}$ of 1%) thereof for each month by which his
24 retirement date precedes the first day of the month coincident
25 with or next following his 65th birthday.
- 26 c. If the member's early service retirement date occurs on or after
27 his 50th birthday and before his 60th birthday and after
28 completion of 20 years of creditable service but prior to the
29 completion of 30 years of creditable service, his early service
30 retirement allowance shall be equal to the greater of:
- 31 1. The service retirement allowance as computed under
32 G.S. 128-27(b21)(2)a. but reduced by the sum of
33 five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for
34 each month by which his retirement date precedes the
35 first day of the month coincident with or next following
36 the month the member would have attained his 60th
37 birthday, plus one-quarter of one percent ($\frac{1}{4}$ of 1%)
38 thereof for each month by which his 60th birthday
39 precedes the first day of the month coincident with or
40 next following his 65th birthday; or
- 41 2. The service retirement allowance as computed under
42 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
43 times the difference between 30 years and his creditable
44 service at retirement; or

1 3. If the member's creditable service commenced prior to
2 July 1, 1995, the service retirement allowance equal to
3 the actuarial equivalent of the allowance payable at the
4 age of 60 years as computed in G.S. 128-27(b21)(2)b.

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

8 **SECTION 6.** G.S. 128-27 is amended by adding a new subsection to read:

9 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2008.
10 – Upon retirement from service in accordance with subsection (a) or (a1) of this section,
11 on or after July 1, 2008, a member shall receive the following service retirement
12 allowance:

13 (1) A member who is a law enforcement officer or an eligible former law
14 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 55th birthday and completion of five years of creditable service
18 as a law enforcement officer or on or after his 50th birthday and
19 after the completion of 25 years of creditable service, the
20 allowance shall be equal to one and eighty-five hundredths
21 percent (1.85%) of his average final compensation, multiplied
22 by the number of years of his creditable service.

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

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

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

38 (2) A member who is not a law enforcement officer or an eligible former
39 law 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 65th birthday upon the completion of five years of creditable
43 service or after the completion of 30 years of creditable service
44 or on or after his 60th birthday upon the completion of 25 years

1 of creditable service, the allowance shall be equal to one and
2 eighty-five hundredths percent (1.85%) of average final
3 compensation, multiplied by the number of years of creditable
4 service.

5 b. If the member's service retirement date occurs after his 60th
6 birthday and before his 65th birthday and prior to his
7 completion of 25 years or more of creditable service, his
8 retirement allowance shall be computed as in
9 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
10 one percent (¼ of 1%) thereof for each month by which his
11 retirement date precedes the first day of the month coincident
12 with or next following his 65th birthday.

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

18 1. The service retirement allowance as computed under
19 G.S. 128-27(b22)(2)a. but reduced by the sum of
20 five-twelfths of one percent (5/12 of 1%) thereof for
21 each month by which his retirement date precedes the
22 first day of the month coincident with or next following
23 the month the member would have attained his 60th
24 birthday, plus one-quarter of one percent (¼ of 1%)
25 thereof for each month by which his 60th birthday
26 precedes the first day of the month coincident with or
27 next following his 65th birthday; or

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

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

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

39 **SECTION 7.** G.S. 128-27(m) reads as rewritten:

40 "(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the
41 principal beneficiary designated to receive a return of accumulated contributions shall
42 have the right to elect to receive in lieu thereof the reduced retirement allowance
43 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 (1) 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 8.** This act becomes effective July 1, 2008.