GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

SENATE BILL 199

Short Title: Law Enforcement Officer Retirement/25 Years. (Public)

Sponsors: Senators Britt, Cook, Sanderson (Primary Sponsors); Chaudhuri, D. Davis, Dunn, J. Jackson, Rabin, and Van Duyn.

Referred to: Rules and Operations of the Senate

March 8, 2017

A BILL TO BE ENTITLED

AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR THE LOCAL GOVERNMENT EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER ACHIEVING TWENTY-FIVE YEARS OF CREDITABLE SERVICE AND TO MAKE CONFORMING CHANGES.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 135-5(a)(4) reads as rewritten:

"(4) Any member who is a law-enforcement officer and who (i) attains age 50 and completes 15 or more years of creditable service in this capacity or who (ii) attains age 55 and completes five or more years of creditable service in this capacity, or (iii) has completed 25 years of creditable service may retire upon electronic submission or written application to the Board of Trustees setting forth at what time, as of the first day of a calendar month, not less than one day nor more than 120 days subsequent to the execution and filing thereof, he-the member desires to be retired; Provided, also, any member who has met the conditions herein required but does not retire, and later becomes a teacher or an employee other than as a law-enforcement officer shall continue to have the right to commence retirement."

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

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, 2002, but before January 1, 2018. – Upon retirement from service in accordance with subsection (a) or (a1) of this section, on or after July 1, 2002, but before January 1, 2018, 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-two hundredths percent (1.82%) 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. 135-5(b19)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 55th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b19)(1)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement.

(2) A member who is not 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 65th birthday upon the completion of five years of membership service or after the completion of 30 years of creditable service or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of his average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after his 60th birthday and before his 65th birthday and prior to his completion of 25 years or more of creditable service, his retirement allowance shall be computed as in G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following his 65th birthday.

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

1. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 135-5(b19)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

3. If the member's creditable service commenced prior to July 1, 1994, the service retirement allowance equal to the actuarial
equivalent of the allowance payable at the age of 60 years as computed in G.S. 135-5(b19)(2)b.

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

SECTION 1.(c) G.S. 135-5 is amended by adding a new subsection to read:

"(b21) Service Retirement Allowance of Members Retiring on or After January 1, 2018. — Upon retirement from service on or after January 1, 2018, in accordance with subsection (a) or (a1) of this section, 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 the member's 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of the member's average final compensation, multiplied by the number of years of creditable service.

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

1. The service retirement allowance payable under G.S. 135-5(b21)(1)a. reduced by one-third of one percent (1/3 of 1%) thereof for each month by which the retirement date precedes the first day of the month coincident with or next following the month the member would have attained age 55.

2. The service retirement allowance as computed under G.S. 135-5(b21)(1)a. reduced by five percent (5%) times the difference between 25 years and the amount of creditable service at retirement.

(2) A member who is not 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 the member's 65th birthday upon the completion of five years of membership service, or after the completion of 30 years of creditable service, or on or after his 60th birthday upon the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-two hundredths percent (1.82%) of the member's average final compensation, multiplied by the number of years of creditable service.

b. If the member's service retirement date occurs after the member's 60th birthday and before the member's 65th birthday and prior to the completion of 25 years or more of creditable service, the retirement allowance shall be computed as in G.S. 135-5(b21)(2)a. but shall be reduced by one-quarter of one percent (1/4 of 1%) thereof for each month by which the retirement date precedes the first day of the month coincident with or next following the member's 65th birthday.

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

1. The service retirement allowance as computed under
   G.S. 135-5(b21)(2)a, but reduced by the sum of five-twelfths of
   one percent (5/12 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 month the member would
   have attained his 60th birthday, plus one-quarter of one percent
   (1/4 of 1%) thereof for each month by which the member's 60th
   birthday precedes the first day of the month coincident with or
   next following the member's 65th birthday.

2. The service retirement allowance as computed under
   G.S. 135-5(b21)(2)a, reduced by five percent (5%) times the
difference between 30 years and the amount of creditable service
at retirement.

3. If the member's creditable service commenced prior to July 1,
   1994, the service retirement allowance equal to the actuarial
equivalent of the allowance payable at the age of 60 years as
computed in G.S. 135-5(b21)(2)b.

d. Notwithstanding the foregoing provisions, any member whose
   creditable service commenced prior to July 1, 1963, shall not receive
less than the benefit provided by subsection (b) of this section."

SECTION 1.(d) G.S. 135-5(m) reads as rewritten:

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the beneficiary
designated to receive a return of accumulated contributions shall have the right to elect to receive
in lieu thereof the reduced retirement allowance provided by Option 2 of subsection (g) above
computed by assuming that the member had retired on the first day of the month following the
date of his the member's death, provided that all four of the following conditions apply:

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

b. The member had obtained 20 years of creditable service in which case
   the retirement allowance shall be computed in accordance with G.S.
   135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., G.S. 135-5(b21)(1)b. or
   G.S. 135-5(b21)(2)c., notwithstanding the requirement of obtaining age
   50, or

b1. The member was a law enforcement officer who had obtained 15 years
   of service as a law enforcement officer and was killed in the line of
duty, in which case the retirement allowance shall be computed in
   accordance with G.S. 135-5(b19)(1)b., G.S. 135-5(b21)(1)b.,
   notwithstanding the requirement of obtaining age 50.

c. Repealed by Session Laws 2010-72, s. 2(a), effective July 1, 2010.

"...."

SECTION 1.(e) G.S. 128-27(a)(5) reads as rewritten:

"(5) Any member who is a law enforcement officer and who (i) attains age
50 and completes 15 or more years of creditable service in this capacity or who
capacity, (ii) attains age 55 and completes five or more years of creditable
service in this capacity, or (iii) who has completed 25 years of creditable
service may retire upon electronic submission or written application to the
Board of Trustees setting forth at what time, as of the first day of a calendar
month, not less than one day nor more than 120 days subsequent to the
execution and filing thereof, he the member desires to be retired; provided, also,
any member who has met the conditions required by this subdivision but does
not retire, and later becomes an employee other than as a law enforcement
officer, continues to have the right to commence retirement."

SECTION 1.(f) G.S. 128-27(b21) reads as rewritten:
"(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003, but
Before January 1, 2018. – Upon retirement from service in accordance with subsection (a) or (a1)
above, on or after July 1, 2003, but before January 1, 2018, 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 percent (1/3
            of 1%) thereof for each month by which his retirement date
            precedes the first day of the month coincident with or next
            following the month the member would have attained his 55th
            birthday;
         2. The service retirement allowance as computed under
            G.S. 128-27(b21)(1)a. reduced by five percent (5%) times the
            difference between 30 years and his creditable service at
            retirement.

(2) A member who is not 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 65th
      birthday upon the completion of five years of creditable service or after
      the completion of 30 years of creditable service or on or after his 60th
      birthday upon the completion of 25 years of creditable service, the
      allowance shall be equal to one and eighty-five hundredths percent
      (1.85%) of average final compensation, multiplied by the number of
      years of creditable service.
   b. If the member's service retirement date occurs after his 60th birthday
      and before his 65th birthday and prior to his completion of 25 years or
      more of creditable service, his retirement allowance shall be computed
      as in G.S. 128-27(b21)(2) a. but shall be reduced by one-quarter of one
      percent (¼ of 1%) thereof for each month by which his retirement date
      precedes the first day of the month coincident with or next following his
      65th birthday.
c. If the member's early service retirement date occurs on or after his 50th birthday and before his 60th birthday and after completion of 20 years of creditable service but prior to the completion of 30 years of creditable service, his early service retirement allowance shall be equal to the greater of:

1. The service retirement allowance as computed under G.S. 128-27(b21)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which his retirement date precedes the first day of the month coincident with or next following the month the member would have attained his 60th birthday, plus one-quarter of one percent (¼ of 1%) thereof for each month by which his 60th birthday precedes the first day of the month coincident with or next following his 65th birthday; or

2. The service retirement allowance as computed under G.S. 128-27(b21)(2)a. reduced by five percent (5%) times the difference between 30 years and his creditable service at retirement; or

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

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

SECTION 1.(g) G.S. 128-27 is amended by adding a new subsection to read:

"(b22) Service Retirement Allowance of Member Retiring on or After January 1, 2018. – Upon retirement from service in accordance with subsection (a) or (a1) of this section, on or after January 1, 2018, 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 the member's 55th birthday and completion of five years of creditable service as a law enforcement officer, or after the completion of 25 years of creditable service, the allowance shall be equal to one and eighty-five hundredths percent (1.85%) of the member's average final compensation, multiplied by the number of years of the member's creditable service.

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

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

2. The service retirement allowance as computed under G.S. 128-7(b22)(1)a. reduced by five percent (5%) times the
(2) A member who is not 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 the member's 65th birthday upon the completion of five years of creditable service, or after the completion of 30 years of creditable service, the retirement allowance shall be equal to one and eighty-five hundredths percent (1.85%) of the member's average final compensation, multiplied by the number of years of creditable service.

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

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

1. The service retirement allowance as computed under G.S. 128-27(b22)(2)a. but reduced by the sum of five-twelfths of one percent (5/12 of 1%) thereof for each month by which the retirement date precedes the first day of the month coincident with or next following the month the member would have attainted the member's 60th birthday, plus one-quarter of one percent (1/4 of 1%) thereof for each month by which the member's 60th birthday precedes the first day of the month coincident with or next following the member's 65th birthday.

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

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

d. Notwithstanding the foregoing provisions, any member whose creditable service commenced prior to July 1, 1965, shall not receive less than the benefit provided by subsection (b) of this section.

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

"(m) Survivor's Alternate Benefit. – Upon the death of a member in service, the beneficiary designated to receive a return of accumulated contributions shall have the right to elect to receive in lieu thereof the reduced retirement allowance provided by Option two of subsection (g) above computed by assuming that the member had retired on the first day of the month following the date of the member's death, provided that all four of the following conditions apply:
(1) a. The member had attained such age and/or creditable service to be eligible to commence retirement with an early or service retirement allowance, or
b. The member had obtained 20 years of creditable service in which case the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b. or G.S. 128-27(b21)(2)c., G.S. 128-27(b22)(1)b. or G.S. 128-27(b22)(2)c., notwithstanding the requirement of obtaining age 50, or
b1. The member was a law enforcement officer who had obtained 15 years of service as a law enforcement officer and was killed in the line of duty, or the member was a firefighter or a rescue squad worker who had obtained 15 years of service as a firefighter or a rescue squad worker and was killed in the line of duty, in which cases the retirement allowance shall be computed in accordance with G.S. 128-27(b21)(1)b., G.S. 128-72(b22)(1)b., notwithstanding the requirement of obtaining age 50.

SECTION 2.(b) G.S. 143-166.41(a) reads as rewritten:

§ 143-166.41. Special separation allowance.
(a) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution who qualifies under this section shall receive, beginning in the month in which he the officer retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance the officer shall meet all of the following criteria:

(1) Have For officers retiring before January 1, 2018, the officer has either (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and service.
(2) For officers retiring on or after January 1, 2018, the officer has either (i) completed 25 or more years of creditable services or (ii) attained 55 years of age and completed five or more years of creditable service.
(2b) Not have The officer has not attained 62 years of age; and age.
(3) Have The officer has completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

SECTION 2.(b) G.S. 143-166.42(a) reads as rewritten:

§ 143-166.42. Special separation allowances for local officers.
(a) On and after January 1, 1987, every sworn law enforcement officer as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3) employed by a local government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The
allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall meet all of the following criteria:

(1) Have For officers retiring before January 1, 2018, the officer has either (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and service.

(2) For officers retiring on or after January 1, 2018, the officer has either (i) completed 25 or more years of creditable services or (ii) attained 55 years of age and completed five or more years of creditable service.

(2)(3) Not have The officer has not attained 62 years of age; and age.

(3) Have The officer has completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance."

SECTION 3. This act becomes effective January 1, 2018.