

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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1

HOUSE BILL 510

Short Title: Increase Law Enforcement Retirement. (Public)

Sponsors: Representatives Fitch; and Wainwright.

Referred to: Highway Safety and Law Enforcement, if favorable, Pensions and Retirement.

March 7, 2001

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 AND THE ABILITY TO RETIRE AFTER TWENTY-
4 FIVE YEARS.
5

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.** G.S. 143-166.41(a) reads as rewritten:

8 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
9 officer as defined by G.S. 135-1(11b) or G.S. 143- 166.30(a)(4) employed by a State
10 department, agency, or institution who qualifies under this ~~section~~ section, and who
11 retires on or before December 31, 2001, shall receive, beginning on the last day of the
12 month in which he retires on a basic service retirement under the provisions of G.S.
13 135-5(a) or G.S. 143-166(y), an annual separation allowance equal to eighty-five
14 hundredths percent (0.85%) of the annual equivalent of the base rate of compensation
15 most recently applicable to him for each year of creditable service. The allowance shall
16 be paid in 12 equal installments on the last day of each month. To qualify for the
17 allowance the officer shall:

18 (1) Have (i) completed 30 or more years of creditable service or, (ii) have
19 attained 55 years of age and completed five or more years of creditable
20 service; and

21 (2) Not have attained 62 years of age; and

22 (3) Have completed at least five years of continuous service as a law
23 enforcement officer as herein defined immediately preceding a service retirement. Any
24 break in the continuous service required by this subsection because of disability
25 retirement or disability salary continuation benefits shall not adversely affect an officer's
26 qualification to receive the allowance, provided the officer returns to service within 45

1 days after the disability benefits cease and is otherwise qualified to receive the
2 allowance."

3 **SECTION 2.** G.S. 143-166.42 reads as rewritten:

4 "**§ 143-166.42. Special separation allowances for local officers.**

5 On and after January 1, 1987, the provisions of G.S. 143- 166.41 shall apply to all
6 eligible law-enforcement officers as defined by G.S. 128-21(11b) or G.S.
7 143-166.50(a)(3) who are employed by local government employers, and who retire on
8 or before December 31, 2001, except as may be provided by this section. As to the
9 applicability of the provisions of G.S. 143-166.41 to locally employed officers, the
10 governing body for each unit of local government shall be responsible for making
11 determinations of eligibility for their local officers retired under the provisions of G.S.
12 128-27(a) and for making payments to their eligible officers under the same terms and
13 conditions, other than the source of payment, as apply to each State department, agency,
14 or institution in payments to State officers according to the provisions of G.S.
15 143-166.41."

16 **SECTION 3.** G.S. 135-5(b18) reads as rewritten:

17 "(b18) Service Retirement Allowance of Members Retiring on or After July 1, ~~2000-~~
18 2000, but Before January 1, 2002. – Upon retirement from service in accordance with
19 subsection (a) or (a1) above, on or after July 1, 2000, but before January 1, 2002, a
20 member shall receive the following service retirement allowance.

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

24 a. If the member's service retirement date occurs on or after his
25 55th birthday, and completion of five years of creditable service
26 as a law enforcement officer, or after the completion of 30 years
27 of creditable service, the allowance shall be equal to one and
28 eighty-one hundredths percent (1.81%) of his average final
29 compensation, multiplied by the number of years of his
30 creditable service.

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

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

42 2. The service retirement allowance as computed under
43 G.S. 135-5(b18)(1)a. reduced by five percent (5%) times

- 1 the difference between 30 years and his creditable
2 service at retirement.
- 3 (2) A member who is not a law enforcement officer or an eligible former
4 law enforcement officer shall receive a service retirement allowance
5 computed as follows:
- 6 a. If the member's service retirement date occurs on or after his
7 65th birthday upon the completion of five years of membership
8 service or after the completion of 30 years of creditable service
9 or on or after his 60th birthday upon the completion of 25 years
10 of creditable service, the allowance shall be equal to one and
11 eighty-one hundredths percent (1.81%) of his average final
12 compensation, multiplied by the number of years of creditable
13 service.
- 14 b. If the member's service retirement date occurs after his 60th
15 birthday and before his 65th birthday and prior to his
16 completion of 25 years or more of creditable service, his
17 retirement allowance shall be computed as in G.S.
18 135-5(b18)(2)a. but shall be reduced by one-quarter of one
19 percent ($\frac{1}{4}$ of 1%) thereof for each month by which his
20 retirement date precedes the first day of the month coincident
21 with or next following his 65th birthday.
- 22 c. If the member's early service retirement date occurs on or after
23 his 50th birthday and before his 60th birthday and after
24 completion of 20 years of creditable service but prior to the
25 completion of 30 years of creditable service, his early service
26 retirement allowance shall be equal to the greater of:
- 27 1. The service retirement allowance as computed under
28 G.S. 135-5(b18)(2)a. but reduced by the sum of
29 five-twelfths of one percent ($\frac{5}{12}$ of 1%) thereof for
30 each month by which his retirement date precedes the
31 first day of the month coincident with or next following
32 the month the member would have attained his 60th
33 birthday, plus one-quarter of one percent ($\frac{1}{4}$ of 1%)
34 thereof for each month by which his 60th birthday
35 precedes the first day of the month coincident with or
36 next following his 65th birthday; or
- 37 2. The service retirement allowance as computed under
38 G.S. 135-5(b18)(2)a. reduced by five percent (5%) times
39 the difference between 30 years and his creditable
40 service at retirement; or
- 41 3. If the member's creditable service commenced prior to
42 July 1, 1994, the service retirement allowance equal to
43 the actuarial equivalent of the allowance payable at the
44 age of 60 years as computed in G.S. 135-5(b18)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 4.** G.S. 135-5 is amended by adding a new subsection to read:

5 "(b19) Service Retirement Allowance of Members Retiring on or After January 1,
6 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above,
7 on or after January 1, 2002, a member shall receive the following service retirement
8 allowance:

- 9 (1) A member who is a law enforcement officer or an eligible former law
10 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 55th birthday and completion of five years of creditable service
14 as a law enforcement officer, or after the completion of 25 years
15 of creditable service, the allowance shall be equal to two and
16 fifty hundredths percent (2.50%) of his average final
17 compensation, multiplied by the number of years of his
18 creditable service.

19 b. If the member's service retirement date occurs on or after his
20 50th birthday and before his 55th birthday with 15 or more
21 years of creditable service as a law enforcement officer and
22 prior to the completion of 25 years of creditable service, his
23 retirement allowance shall be equal to the greater of:

24 1. The service retirement allowance payable under G.S.
25 135-5(b19)(1)a. reduced by one-third of one percent (1/3
26 of 1%) thereof for each month by which his retirement
27 date precedes the first day of the month coincident with
28 or next following the month the member would have
29 attained his 55th birthday; or

30 2. The service retirement allowance as computed under
31 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times
32 the difference between 25 years and his creditable
33 service at retirement.

- 34 (2) A member who is not a law enforcement officer or an eligible former
35 law enforcement officer shall receive a service retirement allowance
36 computed as follows:

37 a. If the member's service retirement date occurs on or after his
38 65th birthday upon the completion of five years of membership
39 service or after the completion of 30 years of creditable service
40 or on or after his 60th birthday upon the completion of 25 years
41 of creditable service, the allowance shall be equal to one and
42 eighty-one hundredths percent (1.81%) of his average final
43 compensation, multiplied by the number of years of creditable
44 service.

- 1 b. If the member's service retirement date occurs after his 60th
2 birthday and before his 65th birthday and prior to his
3 completion of 25 years or more of creditable service, his
4 retirement allowance shall be computed as in G.S. 135-
5 5(b19)(2)a. but shall be reduced by one-quarter of one percent
6 (1/4 of 1%) thereof for each month by which his retirement date
7 precedes the first day of the month coincident with or next
8 following his 65th birthday.
- 9 c. If the member's early service retirement date occurs on or after
10 his 50th birthday and before his 60th birthday and after
11 completion of 20 years of creditable service but prior to the
12 completion of 30 years of creditable service, his early service
13 retirement allowance shall be equal to the greater of:
- 14 1. The service retirement allowance as computed under
15 G.S. 135-5(b19)(2)a. but reduced by the sum of five-
16 twelfths of one percent (5/12 of 1%) thereof for each
17 month by which his retirement date precedes the first day
18 of the month coincident with or next following the
19 month the member would have attained his 60th
20 birthday, plus one-quarter of one percent (1/4 of 1%)
21 thereof for each month by which his 60th birthday
22 precedes the first day of the month coincident with or
23 next following his 65th birthday; or
- 24 2. The service retirement allowance as computed under
25 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times
26 the difference between 30 years and his creditable
27 service at retirement; or
- 28 3. If the member's creditable service commenced prior to
29 July 1, 1994, the service retirement allowance equal to
30 the actuarial equivalent of the allowance payable at the
31 age of 60 years as computed in G.S. 135-5(b19)b.
- 32 d. Notwithstanding the foregoing provisions, any member whose
33 creditable service commenced prior to July 1, 1963, shall not
34 receive less than the benefit provided by G.S. 135-5(b)."

35 **SECTION 5.** G.S. 135-5(m) reads as rewritten:

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

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

1 b. The member had obtained 20 years of creditable service in
2 which case the retirement allowance shall be computed in
3 accordance with ~~G.S. 135-5(b18)(1)b. or G.S. 135-5(b18)(2)c.,~~
4 G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c., notwithstanding
5 the requirement of obtaining age 50.

6 (2) The member had designated as the principal beneficiary to receive a
7 return of his accumulated contributions one and only one person who
8 was living at the time of his death.

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

11 For the purpose of this benefit, a member is considered to be in service at the date of
12 his death if his death occurs within 180 days from the last day of his actual service. The
13 last day of actual service shall be determined as provided in subsection (l) of this
14 section. Upon the death of a member in service, the surviving spouse may make all
15 purchases for creditable service as provided for under this Chapter for which the
16 member had made application in writing prior to the date of death, provided that the
17 date of death occurred prior to or within 60 days after notification of the cost to make
18 the purchase. The term "in service" as used in this subsection includes a member in
19 receipt of a benefit under the Disability Income Plan as provided in Article 6 of this
20 Chapter."

21 **SECTION 6.** G.S. 128-27(b18) reads as rewritten:

22 "(b18) Service Retirement Allowance of Member Retiring on or After July 1, ~~2000-~~
23 2000, but Before January 1, 2002. – Upon retirement from service in accordance with
24 subsection (a) or (a1) above, on or after July 1, 2000, but before January 1, 2002, a
25 member shall receive the following service retirement allowance:

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

29 a. If the member's service retirement date occurs on or after his
30 55th birthday and completion of five years of creditable service
31 as a law enforcement officer, or after the completion of 30 years
32 of creditable service, the allowance shall be equal to one and
33 seventy-eight hundredths percent (1.78%) of his average final
34 compensation, multiplied by the number of years of his
35 creditable service.

36 b. If the member's service retirement date occurs on or after his
37 50th birthday and before his 55th birthday with 15 or more
38 years of creditable service as a law enforcement officer and
39 prior to the completion of 30 years of creditable service, his
40 retirement allowance shall be equal to the greater of:

41 1. The service retirement allowance payable under G.S.
42 128-27(b18)(1)a. reduced by one-third of one percent
43 (1/3 of 1%) thereof for each month by which his
44 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(b18)(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 seventy-eight hundredths percent (1.78%) 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 G.S.
22 128-27(b18)(2)a. but shall be reduced by one-quarter of one
23 percent (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(b18)(2)a. but reduced by the sum of
33 five-twelfths of one percent (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 (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(b18)(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(b18)(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 7.** G.S. 128-27 is amended by adding a new subsection to read:

9 "(b19) Service Retirement Allowance of Member Retiring on or After January 1,
10 2002. – Upon retirement from service in accordance with subsection (a) or (a1) above,
11 on or after January 1, 2002, 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 after the completion of 25 years
19 of creditable service, the allowance shall be equal to two and
20 fifty hundredths percent (2.50%) of average final compensation,
21 multiplied by the number of years of his creditable service.

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

27 1. The service retirement allowance payable under G.S.
28 128-27(b19)(1)a. reduced by one-third of one percent
29 (1/3 of 1%) thereof for each month by which his
30 retirement date precedes the first day of the month
31 coincident with or next following the month the member
32 would have attained his 55th birthday;

33 2. The service retirement allowance as computed under
34 G.S. 128-27(b19)(1)a. reduced by five percent (5%)
35 times the difference between 25 years and his creditable
36 service at retirement.

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

40 a. If the member's service retirement date occurs on or after his
41 65th birthday upon the completion of five years of creditable
42 service or after the completion of 30 years of creditable service
43 or on or after his 60th birthday upon the completion of 25 years
44 of creditable service, the allowance shall be equal to one and

1 seventy-eight hundredths percent (1.78%) of average final
2 compensation, multiplied by the number of years of creditable
3 service.

4 b. If the member's service retirement date occurs after his 60th
5 birthday and before his 65th birthday and prior to his
6 completion of 25 years or more of creditable service, his
7 retirement allowance shall be computed as in G.S. 128-
8 27(b19)(2)a. but shall be reduced by one-quarter of one percent
9 (1/4 of 1%) thereof for each month by which his retirement date
10 precedes the first day of the month coincident with or next
11 following his 65th birthday.

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

17 1. The service retirement allowance as computed under
18 G.S. 128-27(b19)(2)a. but reduced by the sum of five-
19 twelfths of one percent (5/12 of 1%) thereof for each
20 month by which his retirement date precedes the first day
21 of the month coincident with or next following the
22 month the member would have attained his 60th
23 birthday, plus one-quarter of one percent (1/4 of 1%)
24 thereof for each month by which his 60th birthday
25 precedes the first day of the month coincident with or
26 next following his 65th birthday; or

27 2. The service retirement allowance as computed under
28 G.S. 128-27(b19)(2)a. reduced by five percent (5%)
29 times the difference between 30 years and his creditable
30 service at retirement; or

31 3. If the member's creditable service commenced prior to
32 July 1, 1995, the service retirement allowance equal to
33 the actuarial equivalent of the allowance payable at the
34 age of 60 years as computed in G.S. 128-27(b19)(2)b.

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

38 **SECTION 8.** G.S. 128-27(m) reads as rewritten:

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

- 1 (1) a. The member had attained such age and/or creditable service to
2 be eligible to commence retirement with an early or service
3 retirement allowance, or
4 b. The member had obtained 20 years of creditable service in
5 which case the retirement allowance shall be computed in
6 accordance with ~~G.S. 128-27(b18)(1)b. or G.S. 128-~~
7 ~~27(b18)(2)c.,~~ G.S. 128-27(b19)(1)b. or G.S. 128-27(b19)(2)c.,
8 notwithstanding the requirement of obtaining age 50.
9 (2) The member had designated as the principal beneficiary to receive a
10 return of his accumulated contributions one and only one person who
11 is living at the time of his death.
12 (3) The member had not instructed the Board of Trustees in writing that he
13 did not wish the provisions of this subsection apply.

14 For the purpose of this benefit, a member is considered to be in service at the date of
15 his death if his death occurs within 180 days from the last day of his actual service. The
16 last day of actual service shall be determined as provided in subsection (1) of this
17 section. Upon the death of a member in service, the surviving spouse may make all
18 purchases for creditable service as provided for under this Chapter for which the
19 member had made application in writing prior to the date of death, provided that the
20 date of death occurred prior to or within 60 days after notification of the cost to make
21 the purchase."

22 **SECTION 9.** This act becomes effective January 1, 2002.