

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1241

Short Title: State Law Officers' 28-Year Retirement. (Public)

Sponsors: Representatives Culpepper; B. Allen, Bell, Bordsen, Carney, Coates, Dickson, England, Fisher, Gibson, Glazier, Harrison, Insko, Jeffus, Ed Jones, Martin, McLawhorn, Owens, Underhill, and Williams.

Referred to: Pensions and Retirement.

April 18, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW A LAW ENFORCEMENT OFFICER WHO IS A MEMBER
2 OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO
3 RETIRE WITH UNREDUCED BENEFITS ON OR AFTER THE OFFICER'S
4 FIFTIETH BIRTHDAY AND AFTER COMPLETING TWENTY-EIGHT YEARS
5 OF SERVICE.
6

7 Whereas, the service of the State Highway Patrol and other State law
8 enforcement officers is essential to the well-being of the citizens of this State; and

9 Whereas, the job of State Highway Patrol officers and other State law
10 enforcement officers is extremely hazardous, and requires long hours reacting to many
11 life-threatening situations on the State's highways and elsewhere; and

12 Whereas, all State law enforcement officers put their lives on the line each
13 day of their service, and deserve the gratitude and support of the people of this State;
14 and

15 Whereas, the rigors of State law enforcement service, and the well-being of
16 the citizens of this State, justify allowing these public servants the option of retiring
17 earlier and allowing younger officers to enter State service; Now, therefore,
18 The General Assembly of North Carolina enacts:

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

20 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-~~
21 2002, but Before July 1, 2005. – Upon retirement from service in accordance with
22 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2005, a member
23 shall receive the following service retirement allowance:

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

- 1 a. If the member's service retirement date occurs on or after his
2 55th birthday, and completion of five years of creditable service
3 as a law enforcement officer, or after the completion of 30 years
4 of creditable service, the allowance shall be equal to one and
5 eighty-two hundredths percent (1.82%) of his average final
6 compensation, multiplied by the number of years of his
7 creditable service.
- 8 b. If the member's service retirement date occurs on or after his
9 50th birthday and before his 55th birthday with 15 or more
10 years of creditable service as a law enforcement officer and
11 prior to the completion of 30 years of creditable service, his
12 retirement allowance shall be equal to the greater of:
- 13 1. The service retirement allowance payable under
14 G.S. 135-5(b19)(1)a. reduced by one-third of one percent
15 (1/3 of 1%) thereof for each month by which his
16 retirement date precedes the first day of the month
17 coincident with or next following the month the member
18 would have attained his 55th birthday; or
- 19 2. The service retirement allowance as computed under
20 G.S. 135-5(b19)(1)a. reduced by five percent (5%) times
21 the difference between 30 years and his creditable
22 service at retirement.
- 23 (2) A member who is not a law enforcement officer or an eligible former
24 law enforcement officer shall receive a service retirement allowance
25 computed as follows:
- 26 a. If the member's service retirement date occurs on or after his
27 65th birthday upon the completion of five years of membership
28 service or after the completion of 30 years of creditable service
29 or on or after his 60th birthday upon the completion of 25 years
30 of creditable service, the allowance shall be equal to one and
31 eighty-two hundredths percent (1.82%) of his average final
32 compensation, multiplied by the number of years of creditable
33 service.
- 34 b. If the member's service retirement date occurs after his 60th
35 birthday and before his 65th birthday and prior to his
36 completion of 25 years or more of creditable service, his
37 retirement allowance shall be computed as in
38 G.S. 135-5(b19)(2)a. but shall be reduced by one-quarter of one
39 percent (1/4 of 1%) thereof for each month by which his
40 retirement date precedes the first day of the month coincident
41 with or next following his 65th birthday.
- 42 c. If the member's early service retirement date occurs on or after
43 his 50th birthday and before his 60th birthday and after
44 completion of 20 years of creditable service but prior to the

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

- 3 1. The service retirement allowance as computed under
 4 G.S. 135-5(b19)(2)a. but reduced by the sum of
 5 five-twelfths of one percent (5/12 of 1%) thereof for
 6 each month by which his retirement date precedes the
 7 first day of the month coincident with or next following
 8 the month the member would have attained his 60th
 9 birthday, plus one-quarter of one percent (1/4 of 1%)
 10 thereof for each month by which his 60th birthday
 11 precedes the first day of the month coincident with or
 12 next following his 65th birthday; or
- 13 2. The service retirement allowance as computed under
 14 G.S. 135-5(b19)(2)a. reduced by five percent (5%) times
 15 the difference between 30 years and his creditable
 16 service at retirement; or
- 17 3. If the member's creditable service commenced prior to
 18 July 1, 1994, the service retirement allowance equal to
 19 the actuarial equivalent of the allowance payable at the
 20 age of 60 years as computed in G.S. 135-5(b19)(2)b.

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

24 **SECTION 2.** G.S. 135-5 is amended by adding a new subsection to read:

25 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2005.
 26 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
 27 after July 1, 2005, a member shall receive the following service retirement allowance:

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

- 31 a. If the member's service retirement date occurs on or after the
 32 officer's 55th birthday, and completion of five years of
 33 creditable service as a law enforcement officer, or on or after
 34 the officer's 50th birthday and after the completion of 28 years
 35 of creditable service as a law enforcement officer or after the
 36 completion of 30 years of creditable service, the allowance shall
 37 be equal to one and eighty-two hundredths percent (1.82%) of
 38 his average final compensation, multiplied by the number of
 39 years of his creditable service.
- 40 b. If the member's service retirement date occurs on or after his
 41 50th birthday and before his 55th birthday with 15 or more
 42 years of creditable service as a law enforcement officer and
 43 prior to the completion of 28 years of creditable service, his
 44 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance payable under
2 G.S. 135-5(b20)(1)a. reduced by one-third of one percent
3 (1/3 of 1%) thereof for each month by which his
4 retirement date precedes the first day of the month
5 coincident with or next following the month the member
6 would have attained his 55th birthday; or
- 7 2. The service retirement allowance as computed under
8 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times
9 the difference between 28 years and his creditable
10 service at retirement.
- 11 (2) A member who is not a law enforcement officer or an eligible former
12 law enforcement officer shall receive a service retirement allowance
13 computed as follows:
- 14 a. If the member's service retirement date occurs on or after his
15 65th birthday upon the completion of five years of membership
16 service or after the completion of 30 years of creditable service
17 or on or after his 60th birthday upon the completion of 25 years
18 of creditable service, the allowance shall be equal to one and
19 eighty-two hundredths percent (1.82%) of his average final
20 compensation, multiplied by the number of years of creditable
21 service.
- 22 b. If the member's service retirement date occurs after his 60th
23 birthday and before his 65th birthday and prior to his
24 completion of 25 years or more of creditable service, his
25 retirement allowance shall be computed as in
26 G.S. 135-5(b20)(2)a. but shall be reduced by one-quarter of one
27 percent (1/4 of 1%) thereof for each month by which his
28 retirement date precedes the first day of the month coincident
29 with or next following his 65th birthday.
- 30 c. If the member's early service retirement date occurs on or after
31 his 50th birthday and before his 60th birthday and after
32 completion of 20 years of creditable service but prior to the
33 completion of 30 years of creditable service, his early service
34 retirement allowance shall be equal to the greater of:
- 35 1. The service retirement allowance as computed under
36 G.S. 135-5(b20)(2)a. but reduced by the sum of
37 five-twelfths of one percent (5/12 of 1%) thereof for
38 each month by which his retirement date precedes the
39 first day of the month coincident with or next following
40 the month the member would have attained his 60th
41 birthday, plus one-quarter of one percent (1/4 of 1%)
42 thereof for each month by which his 60th birthday
43 precedes the first day of the month coincident with or
44 next following his 65th birthday; or

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

5 3. If the member's creditable service commenced prior to
6 July 1, 1994, the service retirement allowance equal to
7 the actuarial equivalent of the allowance payable at the
8 age of 60 years as computed in G.S. 135-5(b20)(2)b.

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

12 **SECTION 3.** G.S. 135-5(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 2 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
18 the following conditions apply:

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

22 b. The member had obtained 20 years of creditable service in
23 which case the retirement allowance shall be computed in
24 accordance with ~~G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)c.,~~
25 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding
26 the requirement of obtaining age 50, or

27 c. The member had not commenced to receive a retirement
28 allowance as provided under this Chapter.

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

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

34 For the purpose of this benefit, a member is considered to be in service at the date of
35 his death if his death occurs within 180 days from the last day of his actual service. The
36 last day of actual service shall be determined as provided in subsection (l) of this
37 section. Upon the death of a member in service, the surviving spouse may make all
38 purchases for creditable service as provided for under this Chapter for which the
39 member had made application in writing prior to the date of death, provided that the
40 date of death occurred prior to or within 60 days after notification of the cost to make
41 the purchase. The term "in service" as used in this subsection includes a member in
42 receipt of a benefit under the Disability Income Plan as provided in Article 6 of this
43 Chapter."

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

1 **"§ 143-166.41. Special separation allowance.**

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

- 11 (1) Have (i) attained 50 years of age and completed 30 28 or more years of
12 creditable service or, (ii) have attained 55 years of age and completed
13 five or more years of creditable service; and
14 (2) Not have attained 62 years of age; and
15 (3) Have completed at least five years of continuous service as a law
16 enforcement officer as herein defined immediately preceding a service
17 retirement. Any break in the continuous service required by this
18 subsection because of disability retirement or disability salary
19 continuation benefits shall not adversely affect an officer's
20 qualification to receive the allowance, provided the officer returns to
21 service within 45 days after the disability benefits cease and is
22 otherwise qualified to receive the allowance.

23 (b) As used in this section, "creditable service" means the service for which
24 credit is allowed under the retirement system of which the officer is a member, provided
25 that at least fifty percent (50%) of the service is as a law enforcement officer as herein
26 defined.

27 (c) Payment to a retired officer under the provisions of this section shall cease at
28 the first of:

- 29 (1) The death of the officer;
30 (2) The last day of the month in which the officer attains 62 years of age;
31 or
32 (3) The first day of reemployment by any State department, agency, or
33 ~~institution, except that this subdivision does not apply to an officer~~
34 ~~returning to State employment in a position exempt from the State~~
35 ~~Personnel Act in an agency other than the agency from which that~~
36 ~~officer retired.~~ institution.

37 (d) This section does not affect the benefits to which an individual may be
38 entitled from State, federal, or private retirement systems. The benefits payable under
39 this section shall not be subject to any increases in salary or retirement allowances that
40 may be authorized by the General Assembly for employees of the State or retired
41 employees of the State.

42 (e) The head of each State department, agency, or institution shall determine the
43 eligibility of employees for the benefits provided herein.

1 (f) The Director of the Budget may authorize from time to time the transfer of
2 funds within the budgets of each State department, agency, or institution necessary to
3 carry out the purposes of this Article. These funds shall be taken from those
4 appropriated to the department, agency, or institution for salaries and related fringe
5 benefits.

6 (g) The head of each State department, agency, or institution shall make the
7 payments set forth in subsection (a) to those persons certified under subsection (e) from
8 funds available under subsection (f)."

9 **SECTION 5.** This act becomes effective July 1, 2005. Notwithstanding any
10 other provisions of law, no accrued or inchoate rights of a vested member of the
11 Teachers' and State Employees' Retirement System to qualify for a retirement benefit
12 under Article 1 of Chapter 135 of the General Statutes may be in any way diminished by
13 the provisions of this act.