

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2007**

**H**

**D**

**HOUSE DRH80214-LL-41A\* (1/30)**

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

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Sponsors: Representatives Glazier, Moore, McLawhorn, and Clary (Primary Sponsors).

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Referred to:

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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 GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF SERVICE AND TO AMEND THE SPECIAL SEPARATION ALLOWANCE BENEFIT FOR LAW ENFORCEMENT OFFICERS.

The General Assembly of North Carolina enacts:

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

"(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002~~2002, but Before July 1, 2007. – Upon retirement from service in accordance with subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2007, 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

1 years of creditable service as a law enforcement officer and  
2 prior to the completion of 30 years of creditable service, his  
3 retirement allowance shall be equal to the greater of:

4 1. The service retirement allowance payable under  
5 G.S. 135-5(b19)(1)a. reduced by one-third of one percent  
6 (1/3 of 1%) thereof for each month by which his  
7 retirement date precedes the first day of the month  
8 coincident with or next following the month the member  
9 would have attained his 55th birthday; or

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

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

17 a. If the member's service retirement date occurs on or after his  
18 65th birthday upon the completion of five years of membership  
19 service or after the completion of 30 years of creditable service  
20 or on or after his 60th birthday upon the completion of 25 years  
21 of creditable service, the allowance shall be equal to one and  
22 eighty-two hundredths percent (1.82%) of his average final  
23 compensation, multiplied by the number of years of creditable  
24 service.

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

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

38 1. The service retirement allowance as computed under  
39 G.S. 135-5(b19)(2)a. but reduced by the sum of  
40 five-twelfths of one percent ( $\frac{5}{12}$  of 1%) thereof for  
41 each month by which his retirement date precedes the  
42 first day of the month coincident with or next following  
43 the month the member would have attained his 60th  
44 birthday, plus one-quarter of one percent ( $\frac{1}{4}$  of 1%)

1                   thereof for each month by which his 60th birthday  
2 precedes the first day of the month coincident with or  
3 next following his 65th birthday; or

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

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

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

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

16                   "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2007.  
17 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or  
18 after July 1, 2007, a member shall receive the following service retirement 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 after the completion of 25 years  
25 of creditable service, the allowance shall be equal to one and  
26 eighty-two hundredths percent (1.82%) of his average final  
27 compensation, multiplied by the number of years of his  
28 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          **SECTION 4.** G.S. 128-27(b21) reads as rewritten:

37          "~~(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003.~~  
38          2003, but Before July 1, 2007. – Upon retirement from service in accordance with  
39          subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2007, a member  
40          shall receive the following service retirement allowance:

- 41           (1)    A member who is a law enforcement officer or an eligible former law  
42                 enforcement officer shall receive a service retirement allowance  
43                 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-five hundredths percent (1.85%) 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. 128-27(b21)(1)a. reduced by one-third of one  
15 percent ( $\frac{1}{3}$  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;
- 19 2. The service retirement allowance as computed under  
20 G.S. 128-27(b21)(1)a. reduced by five percent (5%)  
21 times 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 creditable  
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-five hundredths percent (1.85%) of 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. 128-27(b21)(2)a. but shall be reduced by one-quarter of  
39 one percent ( $\frac{1}{4}$  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. 128-27(b21)(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. 128-27(b21)(2)a. reduced by five percent (5%)  
15 times 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, 1995, 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. 128-27(b21)(2)b.

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

24 **SECTION 5.** G.S. 128-27 is amended by adding a new subsection to read:

25 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2007.  
26 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or  
27 after July 1, 2007, 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 his  
32 55th birthday and completion of five years of creditable service  
33 as a law enforcement officer, or after the completion of 25 years  
34 of creditable service, the allowance shall be equal to one and  
35 eighty-five hundredths percent (1.85%) of his average final  
36 compensation, multiplied by the number of years of his  
37 creditable service.

38 b. If the member's service retirement date occurs on or after his  
39 50th birthday and before his 55th birthday with 15 or more  
40 years of creditable service as a law enforcement officer and  
41 prior to the completion of 25 years of creditable service, his  
42 retirement allowance shall be equal to the greater of:

- 43 1. The service retirement allowance payable under  
44 G.S. 128-27(b22)(1)a. reduced by one-third of one



- 1 times the difference between 30 years and his creditable  
2 service at retirement; or  
3 3. If the member's creditable service commenced prior to  
4 July 1, 1995, the service retirement allowance equal to  
5 the actuarial equivalent of the allowance payable at the  
6 age of 60 years as computed in G.S. 128-27(b22)(2)b.  
7 d. Notwithstanding the foregoing provisions, any member whose  
8 creditable service commenced prior to July 1, 1965, shall not  
9 receive less than the benefit provided by G.S. 128-27(b)."

10 **SECTION 6.** G.S. 128-27(m) reads as rewritten:

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

- 17 (1) a. The member had attained such age and/or creditable service to  
18 be eligible to commence retirement with an early or service  
19 retirement allowance, or  
20 b. The member had obtained 20 years of creditable service in  
21 which case the retirement allowance shall be computed in  
22 accordance with ~~G.S. 128-27(b21)(1)b.~~ or  
23 ~~G.S. 128-27(b21)(2)c.,~~ G.S. 128-27(b22)(1)b. or  
24 G.S. 128-27(b22)(2)c., notwithstanding the requirement of  
25 obtaining age 50, or  
26 c. The member had not commenced to receive a retirement  
27 allowance as provided under this Chapter.  
28 (2) The member had designated as the principal beneficiary to receive a  
29 return of his accumulated contributions one and only one person who  
30 is living at the time of his death.  
31 (3) The member had not instructed the Board of Trustees in writing that he  
32 did not wish the provisions of this subsection apply.

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

41 **SECTION 7.** G.S. 143-166.41 reads as rewritten:

42 "**§ 143-166.41. Special separation allowance.**

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 ~~on the last day of~~ in the month in which he retires on a basic service  
3 retirement under the provisions of G.S. 135-5(a) or G.S. 143-166(y), an annual  
4 separation allowance equal to eighty-five hundredths percent (0.85%) of the annual  
5 equivalent of the base rate of compensation most recently applicable to him for each  
6 year of creditable service. Payment of the special separation allowance shall be made at  
7 the same time as the officer's retirement benefits. The allowance shall be paid in 12  
8 equal ~~installments on the last day of each month.~~ installments. To qualify for the  
9 allowance the officer shall:

- 10 (1) Have (i) completed ~~30~~ 25 or more years of creditable service or, (ii)  
11 have attained 55 years of age and completed five or more years of  
12 creditable service; and
- 13 (2) Not have ~~attained 62 years of age;~~ become eligible for unreduced  
14 Social Security benefits; 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 (b1) Payment of the special separation allowance shall be administered by the  
28 Department of State Treasurer, which shall establish a Special Separation Allowance  
29 Fund to receive funds from each department, agency, or institution employing officers  
30 who are entitled to receive benefits under this Article. The Department of State  
31 Treasurer shall establish the percentage allocation for each officer during the officer's  
32 employment with an agency based upon the amount necessary to fund the officer's  
33 separation allowance. Each agency shall pay this amount to the Department of State  
34 Treasurer to be allocated to each officer during the officer's career and the amount shall  
35 be portable from agency to agency.

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

- 38 (1) The death of the officer;
- 39 (2) The last day of the month in which the officer ~~attains 62 years of age;~~  
40 becomes eligible for unreduced Social Security benefits; or
- 41 (3) ~~The first day of reemployment by any State department, agency, or~~  
42 ~~institution, except that this subdivision does not apply to an officer~~  
43 ~~returning to State employment in a position exempt from the State~~  
44 ~~Personnel Act in an agency other than the agency from which that~~

1                   ~~officer retired.~~ Any employment of the officer that causes suspension  
2                   of payment of the officer's retirement allowance.

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

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

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

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

18               **SECTION 8.** The Department of State Treasurer shall develop and  
19 implement a plan for transitioning administration of the special separation allowance to  
20 the Department as provided for in this act.

21               **SECTION 9.** Section 8 of this act is effective when it becomes law. The  
22 remainder of this act becomes effective January 1, 2008.