

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1276

Short Title: Increase LEO Retirement.

(Public)

Sponsors: Representatives Fitch, Blue, Michaux; Adams, Black, Braswell, Buchanan, Clary, Dedmon, Hensley, H. Hunter, McAllister, Mosley, Wainwright, Warner, and Wright.

Referred to: Pensions & Retirement.

May 14, 1998

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.
4

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 143-166.41(a) reads as rewritten:

7 "(a) Notwithstanding any other provision of law, every sworn law-enforcement
8 officer as defined by G.S. 135-1(11b) or G.S. 143-166.30(a)(4) employed by a State
9 department, agency, or institution who qualifies under this section and who retires on or
10 before December 31, 1998, shall receive, beginning on the last day of the month in which
11 he retires on a basic service retirement under the provisions of G.S. 135-5(a) or G.S. 143-
12 166(y), an annual separation allowance equal to eighty-five hundredths percent (0.85%)
13 of the annual equivalent of the base rate of compensation most recently applicable to him
14 for each year of creditable service. The allowance shall be paid in 12 equal installments
15 on the last day of each month. To qualify for the allowance the officer shall:

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

- 1 (2) Not have attained 62 years of age; and
2 (3) Have completed at least five years of continuous service as a law
3 enforcement officer as herein defined immediately preceding a service
4 retirement. Any break in the continuous service required by this
5 subsection because of disability retirement or disability salary
6 continuation benefits shall not adversely affect an officer's qualification
7 to receive the allowance, provided the officer returns to service within
8 45 days after the disability benefits cease and is otherwise qualified to
9 receive the allowance."

10 Section 2. G.S. 143-166.42 reads as rewritten:

11 **"§ 143-166.42. Special separation allowances for local officers.**

12 On and after January 1, 1987, the provisions of G.S. 143- 166.41 shall apply to all
13 eligible law-enforcement officers as defined by G.S. 128-21(11b) or G.S. 143-
14 166.50(a)(3) who are employed by local government ~~employers,~~ employers, and who
15 retire on or before December 31, 1998, except as may be provided by this section. As to
16 the applicability of the provisions of G.S. 143-166.41 to locally employed officers, the
17 governing body for each unit of local government shall be responsible for making
18 determinations of eligibility for their local officers retired under the provisions of G.S.
19 128-27(a) and for making payments to their eligible officers under the same terms and
20 conditions, other than the source of payment, as apply to each State department, agency,
21 or institution in payments to State officers according to the provisions of G.S. 143-
22 166.41."

23 Section 3. G.S. 135-5(a17) reads as rewritten:

24 "(b17) Service Retirement Allowance of Members Retiring on or After July 1,
25 1997-1997, but Before January 1, 1999. – Upon retirement from service in accordance
26 with subsection (a) or (a1) above, on or after July 1, 1997, but before January 1, 1999, a
27 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 30 years
34 of creditable service, the allowance shall be equal to one and
35 eighty hundredths percent (1.80%) 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 years
40 of creditable service as a law enforcement officer and prior to the
41 completion of 30 years of creditable service, his retirement
42 allowance shall be equal to the greater of:

- 1 1. The service retirement allowance payable under G.S. 135-
2 5(b17)(1)a. reduced by one-third of one percent ($1/3$ of
3 1%) thereof for each month by which his retirement date
4 precedes the first day of the month coincident with or next
5 following the month the member would have attained his
6 55th birthday; or
- 7 2. The service retirement allowance as computed under G.S.
8 135-5(b17)(1)a. reduced by five percent (5%) times the
9 difference between 25 years and his creditable service at
10 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 creditable
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 hundredths percent (1.80%) 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 and
23 before his 65th birthday and prior to his completion of 25 years
24 or more of creditable service, his retirement allowance shall be
25 computed as in G.S. 135-5(b17)(2)a. but shall be reduced by one-
26 quarter of one percent ($1/4$ of 1%) thereof for each month by
27 which his retirement date precedes the first day of the month
28 coincident with or next following his 65th birthday.
 - 29 c. If the member's early service retirement date occurs on or after
30 his 50th birthday and before his 60th birthday and after
31 completion of 20 years of creditable service but prior to the
32 completion of 30 years of creditable service, his early service
33 retirement allowance shall be equal to the greater of:
 - 34 1. The service retirement allowance as computed under G.S.
35 135-5(b17)(2)a. but reduced by the sum of five-twelfths of
36 one percent ($5/12$ of 1%) thereof for each month by which
37 his retirement date precedes the first day of the month
38 coincident with or next following the month the member
39 would have attained his 60th birthday, plus one-quarter of
40 one percent ($1/4$ of 1%) thereof for each month by which
41 his 60th birthday precedes the first day of the month
42 coincident with or next following his 65th birthday; or

- 1 2. The service retirement allowance as computed under G.S.
2 135-5(b17)(2)a. reduced by five percent (5%) times the
3 difference between 25 years and his creditable service at
4 retirement; or
5 3. If the member's creditable service commenced prior to
6 July 1, 1994, the service retirement allowance equal to the
7 actuarial equivalent of the allowance payable at the age of
8 60 years as computed in G.S. 135-5(b17)(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 4. G.S. 135-5 is amended by adding a new subsection to read:

13 "(b18) Service Retirement Allowance of Members Retiring on or After January 1,
14 1999. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
15 or after January 1, 1999, a member shall receive the following service retirement
16 allowance:

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

20 a. If the member's service retirement date occurs on or after his
21 55th birthday, and completion of five years of creditable service
22 as a law enforcement officer, or after the completion of 25 years
23 of creditable service, the allowance shall be equal to two and
24 fifty hundredths percent (2.50%) of his average final
25 compensation, multiplied by the number of years of his
26 creditable service.

27 b. If the member's service retirement date occurs on or after his
28 50th birthday and before his 55th birthday with 15 or more years
29 of creditable service as a law enforcement officer and prior to the
30 completion of 25 years of creditable service, his retirement
31 allowance shall be equal to the greater of:

32 1. The service retirement allowance payable under G.S. 135-
33 5(b18)(1)a. reduced by one-third of one percent (1/3 of
34 1%) thereof for each month by which his retirement date
35 precedes the first day of the month coincident with or next
36 following the month the member would have attained his
37 55th birthday; or

38 2. The service retirement allowance as computed under G.S.
39 135-5(b18)(1)a. reduced by five percent (5%) times the
40 difference between 25 years and his creditable service at
41 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 creditable
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 hundredths percent (1.80%) 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 and
13 before his 65th birthday and prior to his completion of 25 years
14 or more of creditable service, his retirement allowance shall be
15 computed as in G.S. 135-5(b18)(2)a. but shall be reduced by one-
16 quarter of one percent (1/4 of 1%) thereof for each month by
17 which his retirement date precedes the first day of the month
18 coincident with or next following his 65th birthday.
- 19 c. If the member's early service retirement date occurs on or after
20 his 50th birthday and before his 60th birthday and after
21 completion of 20 years of creditable service but prior to the
22 completion of 30 years of creditable service, his early service
23 retirement allowance shall be equal to the greater of:
- 24 1. The service retirement allowance as computed under G.S.
25 135-5(b18)(2)a. but reduced by the sum of five-twelfths of
26 one percent (5/12 of 1%) thereof for each month by which
27 his retirement date precedes the first day of the month
28 coincident with or next following the month the member
29 would have attained his 60th birthday, plus one-quarter of
30 one percent (1/4 of 1%) thereof for each month by which
31 his 60th birthday precedes the first day of the month
32 coincident with or next following his 65th birthday; or
- 33 2. The service retirement allowance as computed under G.S.
34 135-5(b18)(2)a. reduced by five percent (5%) times the
35 difference between 25 years and his creditable service at
36 retirement; or
- 37 3. If the member's creditable service commenced prior to
38 July 1, 1994, the service retirement allowance equal to the
39 actuarial equivalent of the allowance payable at the age of
40 60 years as computed in G.S. 135-5(b18)(2)b.
- 41 d. Notwithstanding the foregoing provisions, any member whose
42 creditable service commenced prior to July 1, 1963, shall not
43 receive less than the benefit provided by G.S. 135-5(b)."

1 Section 5. G.S. 135-59(m) reads as rewritten:

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

- 8 (1) a. The member had attained such age and/or creditable service to be
9 eligible to commence retirement with an early or service
10 retirement allowance, or
11 b. The member had obtained 20 years of creditable service in which
12 case the retirement allowance shall be computed in accordance
13 with ~~G.S. 135-5(b17)(1)b.~~ G.S. 135-5(b18)(1)b. or ~~G.S. 135-~~
14 ~~5(b17)(2)c.~~ G.S. 135-5(b18)(2)c., notwithstanding the
15 requirement of obtaining age 50.
16 (2) The member had designated as the principal beneficiary to receive a
17 return of his accumulated contributions one and only one person who
18 was living at the time of his death.
19 (3) The member had not instructed the Board of Trustees in writing that he
20 did not wish the provisions of this subsection to apply.

21 For the purpose of this benefit, a member is considered to be in service at the date of
22 his death if his death occurs within 180 days from the last day of his actual service. The
23 last day of actual service shall be determined as provided in subsection (l) of this
24 section. Upon the death of a member in service, the surviving spouse may make all
25 purchases for creditable service as provided for under this Chapter for which the member
26 had made application in writing prior to the date of death, provided that the date of death
27 occurred prior to or within 60 days after notification of the cost to make the purchase.
28 The term "in service" as used in this subsection includes a member in receipt of a benefit
29 under the Disability Income Plan as provided in Article 6 of this Chapter."

30 Section 6. G.S. 128-27(b16) reads as rewritten:

31 "(b16) Service Retirement Allowance of Members Retiring on or after July 1,
32 ~~1997.~~ July 1, 1997, but Before January 1, 1999. – Upon retirement from service in
33 accordance with subsection (a) or (a1) above, on or after July 1, 1997, but before January
34 1, 1999, a member shall receive the following service retirement allowance:

- 35 (1) A member who is a law enforcement officer or an eligible former law
36 enforcement officer shall receive a service retirement allowance
37 computed as follows:
38 a. If the member's service retirement date occurs on or after his
39 55th birthday, and completion of five years of creditable service
40 as a law enforcement officer, or after the completion of 25 years
41 of creditable service, the allowance shall be equal to one and
42 seventy-six hundredths percent (1.76%) of his average final

- 1 compensation, multiplied by the number of years of his
2 creditable service.
- 3 b. If the member's service retirement date occurs on or after his
4 50th birthday and before his 55th birthday with 15 or more years
5 of creditable service as a law enforcement officer and prior to the
6 completion of 30 years of creditable service, his retirement
7 allowance shall be equal to the greater of:
- 8 1. The service retirement allowance payable under G.S. 128-
9 27(b16)(1)a. reduced by one-third of one percent ($\frac{1}{3}$ of
10 1%) thereof for each month by which his retirement date
11 precedes the first day of the month coincident with or next
12 following the month the member would have attained his
13 55th birthday; or
- 14 2. The service retirement allowance as computed under G.S.
15 128-27(b16)(1)a. reduced by five percent (5%) times the
16 difference between 25 years and his creditable service at
17 retirement.
- 18 (2) A member who is not a law enforcement officer or an eligible former
19 law enforcement officer shall receive a service retirement allowance
20 computed as follows:
- 21 a. If the member's service retirement date occurs on or after his
22 65th birthday upon the completion of five years of creditable
23 service or after the completion of 30 years of creditable service
24 or on or after his 60th birthday upon the completion of 25 years
25 of creditable service, the allowance shall be equal to one and
26 seventy-six hundredths percent (1.76%) of his average final
27 compensation, multiplied by the number of years of creditable
28 service.
- 29 b. If the member's service retirement date occurs after his 60th and
30 before his 65th birthday and prior to his completion of 25 years
31 or more of creditable service, his retirement allowance shall be
32 computed as in G.S. 128-27(b16)(2)a. but shall be reduced by
33 one-quarter of one percent ($\frac{1}{4}$ of 1%) thereof for each month by
34 which his retirement date precedes the first day of the month
35 coincident with or next following his 65th birthday.
- 36 c. If the member's early service retirement date occurs on or after
37 his 50th birthday and before his 60th birthday and after
38 completion of 20 years of creditable service but prior to the
39 completion of 30 years of creditable service, his early service
40 retirement allowance shall be equal to the greater of:
- 41 1. The service retirement allowance as computed under G.S.
42 128-27(b16)(2)a. but reduced by the sum of five-twelfths
43 of one percent ($\frac{5}{12}$ of 1%) thereof for each month by

1 which his retirement date precedes the first day of the
2 month coincident with or next following the month the
3 member would have attained his 60th birthday, plus one-
4 quarter of one percent (1/4 of 1%) thereof for each month
5 by which his 60th birthday precedes the first day of the
6 month coincident with or next following his 65th birthday;
7 or

- 8 2. The service retirement allowance as computed under G.S.
9 128-27(b16)(2)a. reduced by five percent (5%) times the
10 difference between 30 years and his creditable service at
11 retirement; or
12 3. If the member's creditable service commenced prior to
13 July 1, 1998, the service retirement allowance equal to the
14 actuarial equivalent of the allowance payable at the age of
15 60 years as computed in G.S. 128-27(b16)(2)b.

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

19 Section 7. G.S. 128-27 is amended by adding a new subsection to read:

20 "(b17) Service Retirement Allowance of Members Retiring on or After January 1,
21 1999. – Upon retirement from service in accordance with subsection (a) or (a1) above, on
22 or after January 1, 1999, a member shall receive the following service retirement
23 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:

- 27 a. If the member's service retirement date occurs on or after his
28 55th birthday, and completion of five years of creditable service
29 as a law enforcement officer, or after the completion of 25 years
30 of creditable service, the allowance shall be equal to two and
31 fifty hundredths percent (2.50%) of his average final
32 compensation, multiplied by the number of years of his
33 creditable service.

- 34 b. If the member's service retirement date occurs on or after his
35 50th birthday and before his 55th birthday with 15 or more years
36 of creditable service as a law enforcement officer and prior to the
37 completion of 25 years of creditable service, his retirement
38 allowance shall be equal to the greater of:

- 39 1. The service retirement allowance payable under G.S. 128-
40 27(b17)(1)a. reduced by one-third of one percent (1/3 of
41 1%) thereof for each month by which his retirement date
42 precedes the first day of the month coincident with or next

- 1 following the month the member would have attained his
2 55th birthday; or
- 3 2. The service retirement allowance as computed under G.S.
4 128-27(b17)(1)a. reduced by five percent (5%) times the
5 difference between 25 years and his creditable service at
6 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-six hundredths percent (1.76%) of his 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 and
19 before his 65th birthday and prior to his completion of 25 years
20 or more of creditable service, his retirement allowance shall be
21 computed as in G.S. 128-27(b17)(2)a. but shall be reduced by
22 one-quarter of one percent (1/4 of 1%) thereof for each month by
23 which his retirement date precedes the first day of the month
24 coincident with or next following his 65th birthday.
- 25 c. If the member's early service retirement date occurs on or after
26 his 50th birthday and before his 60th birthday and after
27 completion of 20 years of creditable service but prior to the
28 completion of 30 years of creditable service, his early service
29 retirement allowance shall be equal to the greater of:
- 30 1. The service retirement allowance as computed under G.S.
31 128-27(b17)(2)a. but reduced by the sum of five-twelfths
32 of one percent (5/12 of 1%) thereof for each month by
33 which his retirement date precedes the first day of the
34 month coincident with or next following the month the
35 member would have attained his 60th birthday, plus one-
36 quarter of one percent (1/4 of 1%) thereof for each month
37 by which his 60th birthday precedes the first day of the
38 month coincident with or next following his 65th birthday;
39 or
- 40 2. The service retirement allowance as computed under G.S.
41 128-27(b17)(2)a. reduced by five percent (5%) times the
42 difference between 30 years and his creditable service at
43 retirement; or

1 3. If the member's creditable service commenced prior to
2 July 1, 1998, the service retirement allowance equal to the
3 actuarial equivalent of the allowance payable at the age of
4 60 years as computed in G.S. 128-27(b17)(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 8. G.S. 128-27(m) reads as rewritten:

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

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

18 b. The member had obtained 20 years of creditable service in which
19 case the retirement allowance shall be computed in accordance
20 with ~~G.S. 128-27(b15)(1)b.~~ G.S. 128-27(b17)b. or ~~G.S. 128-~~
21 ~~27(b15)(2)e.,~~ G.S. 128-27(b17)c., notwithstanding the
22 requirement of obtaining age 50.

23 (2) The member had designated as the principal beneficiary to receive a
24 return of his accumulated contributions one and only one person who is
25 living at the time of his death.

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

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

35 Section 9. This act becomes effective January 1, 1999.