

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

1

HOUSE BILL 2117

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

Sponsors: Representatives Sutton; Boylan, Bryant, Cleveland, Coleman, Current, England, Faison, Glazier, Hurley, Insko, Johnson, Justus, Langdon, McLawhorn, Moore, Spear, Steen, Tarleton, Underhill, Wainwright, and Wray.

Referred to: Pensions and Retirement, if favorable, Appropriations.

May 15, 2008

A BILL TO BE ENTITLED

1
2 AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS
3 OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM TO
4 RETIRE WITH UNREDUCED BENEFITS AFTER COMPLETING
5 TWENTY-EIGHT YEARS OF SERVICE.

6 The General Assembly of North Carolina enacts:

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

8 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-~~
9 2002, but Before July 1, 2009. – Upon retirement from service in accordance with
10 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2009, a member
11 shall receive the following service retirement allowance:

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

15 a. If the member's service retirement date occurs on or after his
16 55th birthday, and completion of five years of creditable service
17 as a law enforcement officer, or after the completion of 30 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 his
21 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 30 years of creditable service, his
26 retirement allowance shall be equal to the greater of:

- 1 1. The service retirement allowance payable under
2 G.S. 135-5(b19)(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(b19)(1)a. reduced by five percent (5%) times
9 the difference between 30 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(b19)(2)a. but shall be reduced by one-quarter of one
27 percent ($\frac{1}{4}$ 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(b19)(2)a. but reduced by the sum of
37 five-twelfths of one percent ($\frac{5}{12}$ 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 ($\frac{1}{4}$ 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(b19)(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(b19)(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 2.** G.S. 135-5 is amended by adding a new subsection to read:

13 "(b20) Service Retirement Allowance of Members Retiring on or After July 1, 2009.
14 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
15 after July 1, 2009, a member shall receive the following service retirement allowance:

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

19 a. If the member's service retirement date occurs on or after his
20 55th birthday, and completion of five years of creditable service
21 as a law enforcement officer, or after the completion of 28 years
22 of creditable service, the allowance shall be equal to one and
23 eighty-two hundredths percent (1.82%) of his average final
24 compensation, multiplied by the number of years of his
25 creditable service.

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

31 1. The service retirement allowance payable under
32 G.S. 135-5(b20)(1)a. reduced by one-third of one percent
33 (1/3 of 1%) thereof for each month by which his
34 retirement date precedes the first day of the month
35 coincident with or next following the month the member
36 would have attained his 55th birthday; or

37 2. The service retirement allowance as computed under
38 G.S. 135-5(b20)(1)a. reduced by five percent (5%) times
39 the difference between 28 years and his creditable
40 service at retirement.

41 (2) A member who is not a law enforcement officer or an eligible former
42 law 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 65th birthday upon the completion of five years of membership
3 service or after the completion of 30 years of creditable service
4 or on or after his 60th birthday upon the completion of 25 years
5 of creditable service, the allowance shall be equal to one and
6 eighty-two hundredths percent (1.82%) of his average final
7 compensation, multiplied by the number of years of creditable
8 service.
- 9 b. If the member's service retirement date occurs after his 60th
10 birthday and before his 65th birthday and prior to his
11 completion of 25 years or more of creditable service, his
12 retirement allowance shall be computed as in
13 G.S. 135-5(b20)(2)a. but shall be reduced by one-quarter of one
14 percent (¼ of 1%) thereof for each month by which his
15 retirement date precedes the first day of the month coincident
16 with or next following his 65th birthday.
- 17 c. If the member's early service retirement date occurs on or after
18 his 50th birthday and before his 60th birthday and after
19 completion of 20 years of creditable service but prior to the
20 completion of 30 years of creditable service, his early service
21 retirement allowance shall be equal to the greater of:
- 22 1. The service retirement allowance as computed under
23 G.S. 135-5(b20)(2)a. but reduced by the sum of
24 five-twelfths of one percent (5/12 of 1%) thereof for
25 each month by which his retirement date precedes the
26 first day of the month coincident with or next following
27 the month the member would have attained his 60th
28 birthday, plus one-quarter of one percent (¼ of 1%)
29 thereof for each month by which his 60th birthday
30 precedes the first day of the month coincident with or
31 next following his 65th birthday; or
- 32 2. The service retirement allowance as computed under
33 G.S. 135-5(b20)(2)a. reduced by five percent (5%) times
34 the difference between 30 years and his creditable
35 service at retirement; or
- 36 3. If the member's creditable service commenced prior to
37 July 1, 1994, the service retirement allowance equal to
38 the actuarial equivalent of the allowance payable at the
39 age of 60 years as computed in G.S. 135-5(b20)(2)b.
- 40 d. Notwithstanding the foregoing provisions, any member whose
41 creditable service commenced prior to July 1, 1963, shall not
42 receive less than the benefit provided by G.S. 135-5(b)."

43 **SECTION 3.** G.S. 135-5(m) reads as rewritten:

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

- 7 (1) a. The member had attained such age and/or creditable service to
8 be eligible to commence retirement with an early or service
9 retirement allowance,
10 b. The member had obtained 20 years of creditable service in
11 which case the retirement allowance shall be computed in
12 accordance with ~~G.S. 135-5(b19)(1)b. or G.S. 135-5(b19)(2)e.,~~
13 G.S. 135-5(b20)(1)b. or G.S. 135-5(b20)(2)c., notwithstanding
14 the requirement of obtaining age 50, or
15 c. The member had not commenced to receive a retirement
16 allowance as provided under this Chapter.
17 (2) The member had designated as the principal beneficiary to receive a
18 return of his accumulated contributions one and only one person who
19 was living at the time of his death.
20 (3) The member had not instructed the Board of Trustees in writing that he
21 did not wish the provisions of this subsection to apply.

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

32 Notwithstanding the foregoing, a member who is in receipt of Workers'
33 Compensation during the period for which the member would have otherwise been
34 eligible to receive short-term benefits, as provided in G.S. 135-105, and who dies on or
35 after 181 days from the last day of the member's actual service but on or before the date
36 the benefits as provided in G.S. 135-105 would have ended, shall be considered in
37 service at the time of the member's death for the purpose of this benefit."

38 **SECTION 4.** This act becomes effective July 1, 2009.