

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 709

Short Title: 25-Year Retirement for First Responders. (Public)

Sponsors: Representatives Howard; LaRoque and Moore.

Referred to: Pensions and Retirement.

March 17, 2005

A BILL TO BE ENTITLED

1 AN ACT TO ALLOW LAW ENFORCEMENT OFFICERS WHO ARE MEMBERS
2 OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM OR
3 THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM AND
4 CAREER FIREFIGHTERS AND CAREER EMERGENCY MEDICAL SERVICES
5 WORKERS WHO ARE MEMBERS OF THE LOCAL GOVERNMENTAL
6 EMPLOYEES' RETIREMENT SYSTEM TO RETIRE WITH UNREDUCED
7 BENEFITS AFTER COMPLETING TWENTY-FIVE YEARS OF SERVICE.
8

9 The General Assembly of North Carolina enacts:

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

11 "(b19) Service Retirement Allowance of Members Retiring on or After July 1, ~~2002-~~
12 2002, but Before July 1, 2005. – Upon retirement from service in accordance with
13 subsection (a) or (a1) above, on or after July 1, 2002, but before July 1, 2005, a member
14 shall receive the following service retirement allowance:

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

18 a. If the member's service retirement date occurs on or after his
19 55th birthday, and completion of five years of creditable service
20 as a law enforcement officer, or after the completion of 30 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 his
24 creditable service.

25 b. If the member's service retirement date occurs on or after his
26 50th birthday and before his 55th birthday with 15 or more
27 years of creditable service as a law enforcement officer and
28 prior to the completion of 30 years of creditable service, his
29 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 (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 (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(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, 2005.
14 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
15 after July 1, 2005, 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 25 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 25 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 25 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 (1/4 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 (1/4 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 **SECTION 4.** G.S.128-21 is amended by adding two new subdivisions to
33 read:

34 "(17a) "Career firefighter" means a person (i) who is a full-time paid
35 employee of an employer that participates in the Local Governmental
36 Employees' Retirement System and maintains a fire department
37 certified by the North Carolina Department of Insurance, and (ii) who
38 is actively serving in a position with assigned primary duties and
39 responsibilities for the prevention, detection, and suppression of fire.

40 (17b) "Career emergency medical services worker" means a person (i) who
41 is a full-time paid employee of an employer that participates in the
42 Local Governmental Employees' Retirement System and maintains an
43 emergency medical services team certified by the North Carolina
44 Department of Insurance, and (ii) who is actively serving in a position

1 with assigned primary duties and responsibilities for the alleviation of
2 human suffering and assistance to persons who are in difficulty, who
3 are injured, or who become suddenly ill, by providing emergency
4 medical services."

5 **SECTION 5.** G.S. 128-27(b21) reads as rewritten:

6 "(b21) Service Retirement Allowance of Member Retiring on or After July 1, 2003-
7 2004, but Before July 1, 2005. – Upon retirement from service in accordance with
8 subsection (a) or (a1) above, on or after July 1, 2003, but before July 1, 2005, a member
9 shall receive the following service retirement allowance:

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

13 a. If the member's service retirement date occurs on or after his
14 55th birthday and completion of five years of creditable service
15 as a law enforcement officer, or after the completion of 30 years
16 of creditable service, the allowance shall be equal to one and
17 eighty-five hundredths percent (1.85%) of his average final
18 compensation, multiplied by the number of years of his
19 creditable service.

20 b. If the member's service retirement date occurs on or after his
21 50th birthday and before his 55th birthday with 15 or more
22 years of creditable service as a law enforcement officer and
23 prior to the completion of 30 years of creditable service, his
24 retirement allowance shall be equal to the greater of:

25 1. The service retirement allowance payable under
26 G.S. 128-27(b21)(1)a. reduced by one-third of one
27 percent (1/3 of 1%) thereof for each month by which his
28 retirement date precedes the first day of the month
29 coincident with or next following the month the member
30 would have attained his 55th birthday;

31 2. The service retirement allowance as computed under
32 G.S. 128-27(b21)(1)a. reduced by five percent (5%)
33 times the difference between 30 years and his creditable
34 service at retirement.

35 (2) A member who is not a law enforcement officer or an eligible former
36 law 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 65th birthday upon the completion of five years of creditable
40 service or after the completion of 30 years of creditable service
41 or on or after his 60th birthday upon the completion of 25 years
42 of creditable service, the allowance shall be equal to one and
43 eighty-five hundredths percent (1.85%) of average final

1 compensation, multiplied by the number of years of creditable
2 service.

3 b. If the member's service retirement date occurs after his 60th
4 birthday and before his 65th birthday and prior to his
5 completion of 25 years or more of creditable service, his
6 retirement allowance shall be computed as in
7 G.S. 128-27(b21)(2) a. but shall be reduced by one-quarter of
8 one percent (1/4 of 1%) thereof for each month by which his
9 retirement date precedes the first day of the month coincident
10 with or next following his 65th birthday.

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

16 1. The service retirement allowance as computed under
17 G.S. 128-27(b21)(2)a. but reduced by the sum of
18 five-twelfths of one percent (5/12 of 1%) thereof for
19 each month by which his retirement date precedes the
20 first day of the month coincident with or next following
21 the month the member would have attained his 60th
22 birthday, plus one-quarter of one percent (1/4 of 1%)
23 thereof for each month by which his 60th birthday
24 precedes the first day of the month coincident with or
25 next following his 65th birthday; or

26 2. The service retirement allowance as computed under
27 G.S. 128-27(b21)(2)a. reduced by five percent (5%)
28 times the difference between 30 years and his creditable
29 service at retirement; or

30 3. If the member's creditable service commenced prior to
31 July 1, 1995, the service retirement allowance equal to
32 the actuarial equivalent of the allowance payable at the
33 age of 60 years as computed in G.S. 128-27(b21)(2)b.

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

37 **SECTION 6.** G.S. 128-27 is amended by adding a new subsection to read:

38 "(b22) Service Retirement Allowance of Member Retiring on or After July 1, 2005.
39 – Upon retirement from service in accordance with subsection (a) or (a1) above, on or
40 after July 1, 2005, a member 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 25 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 25 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(b22)(1)a. reduced by one-third of one
15 percent (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(b22)(1)a. reduced by five percent (5%)
21 times the difference between 25 years and his creditable
22 service at retirement.
- 23 (2) A member who is a career firefighter, an eligible former career
24 firefighter, an emergency medical services worker, or an eligible
25 former career emergency medical services worker shall receive a
26 service retirement allowance computed as follows:
- 27 a. If the member's service retirement date occurs on or after his
28 65th birthday upon the completion of five years of creditable
29 service or after the completion of 25 years of creditable service,
30 the allowance shall be equal to one and eighty-five hundredths
31 percent (1.85%) of average final compensation, multiplied by
32 the number of years of creditable service.
- 33 b. If the member's service retirement date occurs after his 60th
34 birthday and before his 65th birthday and prior to his
35 completion of 25 years or more of creditable service, his
36 retirement allowance shall be computed as in
37 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
38 one percent (1/4 of 1%) thereof for each month by which his
39 retirement date precedes the first day of the month coincident
40 with or next following his 65th birthday.
- 41 c. If the member's early service retirement date occurs on or after
42 his 50th birthday and before his 60th birthday and after
43 completion of 20 years of creditable service but prior to the

1 completion of 25 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(b22)(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(b22)(2)a. reduced by five percent (5%)
15 times the difference between 25 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(b22)(2)b.
- 21 d. Notwithstanding the foregoing provisions, any member
22 whose creditable service commenced prior to July 1,
23 1965, shall not receive less than the benefit provided by
24 G.S. 128-27(b).

25 (3) A member who is not a law enforcement officer, an eligible former
26 law enforcement officer, a career firefighter, an eligible former career
27 firefighter, a career emergency medical services worker, or an eligible
28 former career emergency medical services worker shall receive a
29 service retirement allowance computed as follows:

- 30 a. If the member's service retirement date occurs on or after his
31 65th birthday upon the completion of five years of creditable
32 service or after the completion of 30 years of creditable service
33 or on or after his 60th birthday upon 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 average final
36 compensation, multiplied by the number of years of creditable
37 service.
- 38 b. If the member's service retirement date occurs after his 60th
39 birthday and before his 65th birthday and prior to his
40 completion of 25 years or more of creditable service, his
41 retirement allowance shall be computed as in
42 G.S. 128-27(b22)(2)a. but shall be reduced by one-quarter of
43 one percent (1/4 of 1%) thereof for each month by which his

1 retirement date precedes the first day of the month coincident
2 with or next following his 65th birthday.

3 c. If the member's early service retirement date occurs on or after
4 his 50th birthday and before his 60th birthday and after
5 completion of 20 years of creditable service but prior to the
6 completion of 30 years of creditable service, his early service
7 retirement allowance shall be equal to the greater of:

8 1. The service retirement allowance as computed under
9 G.S. 128-27(b22)(2)a. but reduced by the sum of
10 five-twelfths of one percent (5/12 of 1%) thereof for
11 each month by which his retirement date precedes the
12 first day of the month coincident with or next following
13 the month the member would have attained his 60th
14 birthday, plus one-quarter of one percent (1/4 of 1%)
15 thereof for each month by which his 60th birthday
16 precedes the first day of the month coincident with or
17 next following his 65th birthday; or

18 2. The service retirement allowance as computed under
19 G.S. 128-27(b22)(2)a. reduced by five percent (5%)
20 times the difference between 30 years and his creditable
21 service at retirement; or

22 3. If the member's creditable service commenced prior to
23 July 1, 1995, the service retirement allowance equal to
24 the actuarial equivalent of the allowance payable at the
25 age of 60 years as computed in G.S. 128-27(b22)(2)b.

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

29 **SECTION 7.** G.S. 128-27(m) reads as rewritten:

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

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

39 b. The member had obtained 20 years of creditable service in
40 which case the retirement allowance shall be computed in
41 accordance with ~~G.S. 128-27(b21)(1)b.~~ or
42 ~~G.S. 128-27(b21)(2)e.,~~ G.S. 128-27(b22)(1)b. or
43 G.S. 128-27(b22)(2)c., notwithstanding the requirement of
44 obtaining age 50, or

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

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

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

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

16 **SECTION 8.** G.S. 143-166.41(a) reads as rewritten:

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

26 (1) Have (i) completed ~~30~~ 25 or more years of creditable service or, (ii)
27 have attained 55 years of age and completed five or more years of
28 creditable service; and

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

30 (3) Have completed at least five years of continuous service as a law
31 enforcement officer as herein defined immediately preceding a service
32 retirement. Any break in the continuous service required by this
33 subsection because of disability retirement or disability salary
34 continuation benefits shall not adversely affect an officer's
35 qualification to receive the allowance, provided the officer returns to
36 service within 45 days after the disability benefits cease and is
37 otherwise qualified to receive the allowance."

38 **SECTION 9.** This act becomes effective July 1, 2005.