

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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**HOUSE BILL 2066
Committee Substitute Favorable 6/22/10**

Short Title: Special Retirement Allowances.

(Public)

Sponsors:

Referred to:

May 27, 2010

A BILL TO BE ENTITLED
AN ACT TO AUTHORIZE THE CREATION OF SPECIAL RETIREMENT ALLOWANCES
FOR RETIREES OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT
SYSTEM AND THE LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT
SYSTEM.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 135-5(m1) reads as rewritten:

"(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any portion of his eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to this Retirement System and receive, in addition to his basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon his eligible accumulated account balance at the date of the transfer of the assets to this System. For the purpose of determining the special retirement allowance, the Board of Trustees shall adopt straight life annuity factors on the basis of mortality tables, such other tables as may be necessary and the interest assumption rate recommended by the actuary based upon actual experience including an assumed annual post-retirement allowance increase of four percent (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided, however, a member, who transfers his eligible accumulated contributions from the Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina State Income tax purposes on the special retirement allowance the same as if that special retirement allowance had been paid directly by the Supplemental Retirement Income Plan of North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to determine the taxable amount, if any, and report accordingly."

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

"(m2) Special Retirement Allowance. – At any time coincident with or following retirement, a member may make a onetime election to transfer any portion of the member's eligible accumulated contributions, not including any Roth after-tax contributions and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation Plan to this Retirement System and receive, in addition to the member's basic service, early or disability retirement allowance, a special retirement allowance which shall be based upon the member's transferred balance. Notwithstanding anything to the contrary, a member may not transfer such amounts that will cause the member's retirement allowance under the System to exceed the amount allowable under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be



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1 transferred if a transfer is elected. The member may elect a special retirement allowance with
2 no postretirement increases or a special retirement allowance with annual postretirement
3 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
4 increases on any other allowance will not apply to the special retirement allowance.

5 For the purpose of determining the special retirement allowance, the Board of Trustees shall
6 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
7 and such other tables as may be necessary based upon actual experience. A single set of
8 mortality and such other tables will be used for all members, with factors differing only based
9 on the age of the member and the election of postretirement increases. The Board of Trustees
10 shall modify the mortality and such other tables every five years, as shall be deemed necessary,
11 based upon the five-year experience study as required by G.S. 135-6(n). Provided, however, a
12 member who transfers the member's eligible accumulated contributions from the Supplemental
13 Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred
14 Compensation Plan to this Retirement System shall be taxed for North Carolina State Income
15 Tax purposes on the special retirement allowance the same as if that special retirement
16 allowance had been paid directly by the Supplemental Retirement Income Plan of North
17 Carolina or the North Carolina Public Employee Deferred Compensation Plan. The Teachers'
18 and State Employees' Retirement System shall be responsible to determine the taxable amount,
19 if any, and report accordingly.

20 The Board of Trustees shall determine a period certain in which the special retirement
21 allowance shall be payable. If the retired member and the person nominated to receive a
22 monthly retirement allowance upon the member's death, if any, die within the period of time
23 specified by the Board of Trustees, the special retirement allowance shall continue to be paid
24 for the remainder of the specified period to the legal representative of the member or to such
25 person as the member shall nominate by written designation duly acknowledged and filed with
26 the Board of Trustees.

27 The Board of Trustees shall report annually to the Joint Legislative Commission on
28 Governmental Operations on the number of persons who made an election in the previous
29 calendar year, with any recommendations it might make on amendment or repeal based on any
30 identified problems.

31 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
32 or amendment shall not affect any person who has already made the onetime election provided
33 herein."

34 **SECTION 3.** G.S. 135-5(g1) reads as rewritten:

35 "(g1) In the event of the death of a retired member while in receipt of a retirement
36 allowance under the provisions of this Article, there shall be paid to such person or persons as
37 the retiree shall have nominated by electronic submission in a form approved by the Board of
38 Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if
39 such person or persons are living at the time of the retiree's death, otherwise to the retiree's
40 legal representatives, a death benefit equal to the excess, if any, of the accumulated
41 contributions of the retiree at the date of retirement over the total of the retirement allowances
42 paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated~~
43 ~~contributions" includes amounts of employee voluntary contributions that were transferred~~
44 ~~from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at~~
45 ~~retirement by eligible law enforcement officers. In the event that a retiree is receiving a Special~~
46 ~~Retirement Allowance under subsection (m1) of this section, there shall be paid to such person~~
47 ~~or persons as the retiree shall have nominated by electronic submission in a form approved by~~
48 ~~the Board of Trustees or by written designation duly acknowledged and filed with the Board of~~
49 ~~Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the~~
50 ~~retiree's legal representatives, an additional death benefit equal to the excess, if any, of the~~
51 ~~employee voluntary contributions that were transferred from the Supplemental Retirement~~

1 Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation
2 Plan to this Retirement System over the total of the Special Retirement Allowances paid prior
3 to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions"
4 excludes any amount transferred under subsection (m2) of this section.

5 In the event that a retirement allowance becomes payable to the designated survivor of a
6 retired member under the provisions above and such retirement allowance to the survivor shall
7 terminate upon the death of the survivor before the total of the retirement allowances paid to
8 the retiree and the designated survivor combined equals the amount of the accumulated
9 contributions of the retiree at the date of retirement, the excess, if any, of such accumulated
10 contributions over the total of the retirement allowances paid to the retiree and the survivor
11 combined shall be paid in a lump sum to such person or persons as the retiree shall have
12 nominated by electronic submission in a form approved by the Board of Trustees or by written
13 designation duly acknowledged and filed with the Board of Trustees, if such person or persons
14 are living at the time such payment falls due, otherwise to the retiree's legal representative. For
15 purposes of this paragraph, the term "accumulated contributions" includes amounts of
16 employee voluntary contributions that were transferred from the Supplemental Retirement
17 Income Plan of North Carolina to this Retirement System at retirement by eligible law
18 enforcement officers.

19 In the event that a retirement allowance becomes payable to the principal beneficiary
20 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
21 section and that beneficiary dies before the total of the retirement allowances paid equals the
22 amount of the accumulated contributions of the member at the date of the member's death, the
23 excess of those accumulated contributions over the total of the retirement allowances paid to
24 the beneficiary shall be paid in a lump sum to the person or persons the member has designated
25 as the contingent beneficiary for return of accumulated contributions, if the person or persons
26 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
27 representative. For purposes of this paragraph, the term "accumulated contributions" includes
28 amounts of employee voluntary contributions that were transferred from the Supplemental
29 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
30 law enforcement officers.

31 In the event a retiree purchases creditable service as provided in G.S. 135-4, there shall be
32 paid to such person or persons as the retiree shall have nominated by electronic submission in a
33 form approved by the Board of Trustees or by written designation duly acknowledged and filed
34 with the Board of Trustees, if such person or persons are living at the time of the retiree's death,
35 otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if
36 any, of the cost of the creditable service purchased less the administrative fee, if any, over the
37 total of the increase in the retirement allowance attributable to the additional creditable service,
38 paid from the month following the month in which payment was received to the death of the
39 retiree.

40 In the event that a retirement allowance becomes payable to the designated survivor of a
41 retired member under the provisions above and such retirement allowance to the survivor shall
42 terminate upon the death of the survivor before the total of the increase in the retirement
43 allowance attributable to the additional creditable service paid to the retiree and the designated
44 survivor combined equals the cost of the creditable service purchased less the administrative
45 fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall
46 have nominated by electronic submission in a form approved by the Board of Trustees or by
47 written designation duly acknowledged and filed with the Board of Trustees, if such person or
48 persons are living at the time such payment falls due, otherwise to the retiree's legal
49 representative.

1 In the event that a retiree dies without having designated a beneficiary to receive a benefit
2 under the provisions of this subsection, any such benefit that becomes payable shall be paid to
3 the member's estate."

4 **SECTION 4.** G.S. 128-27(m1) reads as rewritten:

5 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
6 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
7 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
8 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
9 this Retirement System and receive, in addition to his basic service, early or disability
10 retirement allowance, a special retirement allowance which shall be based upon his eligible
11 accumulated account balance at the date of the transfer of the assets to this System. For the
12 purpose of determining the special retirement allowance, the Board of Trustees shall adopt
13 straight life annuity factors on the basis of mortality tables, such other tables as may be
14 necessary and the interest assumption rate recommended by the actuary based upon actual
15 experience including an assumed annual post-retirement allowance increase of four percent
16 (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed
17 necessary, based upon the five year experience study as required by ~~G.S. 128-29(o)~~.
18 G.S. 128-28(o). Provided, however, a member who transfers his eligible accumulated
19 contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed
20 for North Carolina State Income tax purposes on the special retirement allowance the same as if
21 that special retirement allowance had been paid directly by the Supplemental Retirement
22 Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall
23 be responsible to determine the taxable amount, if any, and report accordingly."

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

25 "(m2) Special Retirement Allowance. – At any time coincident with or following
26 retirement, a member may make a onetime election to transfer any portion of the member's
27 eligible accumulated contributions, not including any Roth after-tax contributions and the
28 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the
29 North Carolina Public Employee Deferred Compensation Plan to this Retirement System and
30 receive, in addition to the member's basic service, early or disability retirement allowance, a
31 special retirement allowance which shall be based upon the member's transferred balance.
32 Notwithstanding anything to the contrary, a member may not transfer such amounts that will
33 cause the member's retirement allowance under the System to exceed the amount allowable
34 under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be
35 transferred if a transfer is elected. The member may elect a special retirement allowance with
36 no postretirement increases or a special retirement allowance with annual postretirement
37 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
38 increases on any other allowance will not apply to the special retirement allowance.

39 For the purpose of determining the special retirement allowance, the Board of Trustees shall
40 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
41 and such other tables as may be necessary based upon actual experience. A single set of
42 mortality and such other tables will be used for all members, with factors differing only based
43 on the age of the member and the election of postretirement increases. The Board of Trustees
44 shall modify the mortality and such other tables every five years, as shall be deemed necessary,
45 based upon the five-year experience study as required by G.S. 128-28(o). Provided, however, a
46 member who transfers the member's eligible accumulated contributions from the Supplemental
47 Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred
48 Compensation Plan to this Retirement System shall be taxed for North Carolina State Income
49 Tax purposes on the special retirement allowance the same as if that special retirement
50 allowance had been paid directly by the Supplemental Retirement Income Plan of North

1 Carolina. The Local Governmental Employees' Retirement System shall be responsible to
2 determine the taxable amount, if any, and report accordingly.

3 The Board of Trustees shall determine a period certain in which the special retirement
4 allowance shall be payable. If the retired member and the person nominated to receive a
5 monthly retirement allowance upon the member's death, if any, die within the period of time
6 specified by the Board of Trustees, the special retirement allowance shall continue to be paid
7 for the remainder of the specified period to the legal representative of the member or to such
8 person as the member shall nominate by written designation duly acknowledged and filed with
9 the Board of Trustees.

10 The Board of Trustees shall report annually to the Joint Legislative Commission on
11 Governmental Operations on the number of persons who made an election in the previous
12 calendar year, with any recommendations it might make on amendment or repeal based on any
13 identified problems.

14 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
15 or amendment shall not affect any person who has already made the onetime election provided
16 herein."

17 **SECTION 6.** G.S. 128-27(g1) reads as rewritten:

18 "(g1) In the event of the death of a retired member while in receipt of a retirement
19 allowance under the provisions of this Article, there shall be paid to such person or persons as
20 the retiree shall have nominated by electronic submission in a form approved by the Board of
21 Trustees or by written designation duly acknowledged and filed with the Board of Trustees, if
22 such person or persons are living at the time of the retiree's death, otherwise to the retiree's
23 legal representatives, a death benefit equal to the excess, if any, of the accumulated
24 contributions of the retiree at the date of retirement over the total of the retirement allowances
25 paid prior to the death of the retiree. ~~For purposes of this paragraph, the term "accumulated~~
26 ~~contributions" includes amounts of employee voluntary contributions that were transferred~~
27 ~~from the Supplemental Retirement Income Plan of North Carolina to this Retirement System at~~
28 ~~retirement by eligible law enforcement officers.~~In the event that a retiree is receiving a Special
29 Retirement Allowance under subsection (m1) of this section, there shall be paid to such person
30 or persons as the retiree shall have nominated by electronic submission in a form approved by
31 the Board of Trustees or by written designation duly acknowledged and filed with the Board of
32 Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the
33 retiree's legal representatives, an additional death benefit equal to the excess, if any, of the
34 employee voluntary contributions that were transferred from the Supplemental Retirement
35 Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation
36 Plan to this Retirement System over the total of the Special Retirement Allowances paid prior
37 to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions"
38 excludes any amount transferred under subsection (m2) of this section.

39 In the event that a retirement allowance becomes payable to the designated survivor of a
40 retired member under the provisions above and such retirement allowance to the survivor shall
41 terminate upon the death of the survivor before the total of the retirement allowances paid to
42 the retiree and the designated survivor combined equals the amount of the accumulated
43 contributions of the retiree at the date of retirement, the excess, if any, of such accumulated
44 contributions over the total of the retirement allowances paid to the retiree and the survivor
45 combined shall be paid in a lump sum to such person or persons as the retiree shall have
46 nominated by electronic submission in a form approved by the Board of Trustees or by written
47 designation duly acknowledged and filed with the Board of Trustees, if such person or persons
48 are living at the time such payment falls due, otherwise to the retiree's legal representative. For
49 purposes of this paragraph, the term "accumulated contributions" includes amounts of
50 employee voluntary contributions that were transferred from the Supplemental Retirement

1 Income Plan of North Carolina to this Retirement System at retirement by eligible law
2 enforcement officers.

3 In the event that a retirement allowance becomes payable to the principal beneficiary
4 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
5 section and that beneficiary dies before the total of the retirement allowances paid equals the
6 amount of the accumulated contributions of the member at the date of the member's death, the
7 excess of those accumulated contributions over the total of the retirement allowances paid to
8 the beneficiary shall be paid in a lump sum to the person or persons the member has designated
9 as the contingent beneficiary for return of accumulated contributions, if the person or persons
10 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
11 representative. For purposes of this paragraph, the term "accumulated contributions" includes
12 amounts of employee voluntary contributions that were transferred from the Supplemental
13 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
14 law enforcement officers.

15 In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be
16 paid to such person or persons as the retiree shall have nominated by electronic submission in a
17 form approved by the Board of Trustees or by written designation duly acknowledged and filed
18 with the Board of Trustees, if such person or persons are living at the time of the retiree's death,
19 otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if
20 any, of the cost of the creditable service purchased less the administrative fee, if any, over the
21 total of the increase in the retirement allowance attributable to the additional creditable service,
22 paid from the month following the month in which payment was received to the death of the
23 retiree.

24 In the event that a retirement allowance becomes payable to the designated survivor of a
25 retired member under the provisions above, and such retirement allowance to the survivor shall
26 terminate upon the death of the survivor before the total of the increase in the retirement
27 allowance attributable to the additional creditable service paid to the retiree and the designated
28 survivor combined equals the cost of the creditable service purchased less the administrative
29 fee, the excess, if any, shall be paid in a lump sum to such person or persons as the retiree shall
30 have nominated by electronic submission in a form approved by the Board of Trustees or by
31 written designation duly acknowledged and filed with the Board of Trustees, if such person or
32 persons are living at the time such payment falls due, otherwise to the retiree's legal
33 representative.

34 In the event that a retiree dies without having designated a beneficiary to receive a benefit
35 under the provisions of this subsection, any such benefit that becomes payable shall be paid to
36 the member's estate."

37 **SECTION 7.** This act becomes effective January 1, 2011.