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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 one-time 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.



1 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
2 cause the member's retirement allowance under the System to exceed the amount allowable
3 under G.S. 135-18.7(b). The Board of Trustees may establish a minimum amount that must be
4 transferred if a transfer is elected. The member may elect a special retirement allowance with
5 no postretirement increases or a special retirement allowance with annual postretirement
6 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
7 increases on any other allowance will not apply to the special retirement allowance. The Board
8 of Trustees shall provide educational materials to the members who apply for the transfer
9 authorized by this section. Those materials shall describe the special retirement allowance and
10 shall explain (i) the relationship between the transferred balance and the monthly benefit; and
11 (ii) how the member's heirs may be impacted by the election to make this transfer and any costs
12 and fees involved.

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

28 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess
29 a one-time flat administrative fee not to exceed the actual cost of the administrative expenses
30 relating to these transfers.

31 The special retirement allowance shall continue for the life of the member and the
32 beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as
33 provided in G.S. 135-5(g), if any. The Board of Trustees, however, shall establish two payment
34 options that guarantee payments as follows:

- 35 (1) A member may elect to receive the special retirement allowance for life but
36 with payments guaranteed for a number of months to be specified by the
37 Board of Trustees. Under this plan, if the member dies before the expiration
38 of the specified number of months, the special retirement allowance will
39 continue to be paid to the member's designated beneficiary for the life of the
40 beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,
41 the member's designated beneficiary will receive the benefit only for the
42 remainder of the specified number of months. If the member's designated
43 beneficiary dies before receiving payments for the specified number of
44 months, any remaining payments will be paid to the member's estate.
- 45 (2) A member may elect to receive the special retirement allowance for life but
46 is guaranteed that the sum of the special allowance payments will equal the
47 total of the transferred amount. Under this payment option, if the member
48 dies before receiving the total transferred amount, the special retirement
49 allowance will continue to be paid to the member's designated beneficiary
50 for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3

1 or 6 is not selected, the member's designated beneficiary or the member's
2 estate shall be paid any remaining balance of the transferred amount.

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

7 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
8 or amendment shall not affect any person who has already made the one-time election provided
9 in this subsection."

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

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

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

46 In the event that a retirement allowance becomes payable to the principal beneficiary
47 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
48 section and that beneficiary dies before the total of the retirement allowances paid equals the
49 amount of the accumulated contributions of the member at the date of the member's death, the
50 excess of those accumulated contributions over the total of the retirement allowances paid to
51 the beneficiary shall be paid in a lump sum to the person or persons the member has designated

1 as the contingent beneficiary for return of accumulated contributions, if the person or persons
2 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
3 representative. For purposes of this paragraph, the term "accumulated contributions" includes
4 amounts of employee voluntary contributions that were transferred from the Supplemental
5 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
6 law enforcement officers.

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

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

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

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

30 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
31 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
32 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
33 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
34 this Retirement System and receive, in addition to his basic service, early or disability
35 retirement allowance, a special retirement allowance which shall be based upon his eligible
36 accumulated account balance at the date of the transfer of the assets to this System. For the
37 purpose of determining the special retirement allowance, the Board of Trustees shall adopt
38 straight life annuity factors on the basis of mortality tables, such other tables as may be
39 necessary and the interest assumption rate recommended by the actuary based upon actual
40 experience including an assumed annual post-retirement allowance increase of four percent
41 (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed
42 necessary, based upon the five year experience study as required by ~~G.S. 128-29(o)~~.
43 G.S. 128-28(o). Provided, however, a member who transfers his eligible accumulated
44 contributions from the Supplemental Retirement Income Plan of North Carolina shall be taxed
45 for North Carolina State Income tax purposes on the special retirement allowance the same as if
46 that special retirement allowance had been paid directly by the Supplemental Retirement
47 Income Plan of North Carolina. The Local Governmental Employees' Retirement System shall
48 be responsible to determine the taxable amount, if any, and report accordingly."

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

50 "(m2) Special Retirement Allowance. – At any time coincident with or following
51 retirement, a member may make a one-time election to transfer any portion of the member's

1 eligible accumulated contributions, not including any Roth after-tax contributions and the
2 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the
3 North Carolina Public Employee Deferred Compensation Plan to this Retirement System and
4 receive, in addition to the member's basic service, early or disability retirement allowance, a
5 special retirement allowance which shall be based upon the member's transferred balance.
6 Notwithstanding anything to the contrary, a member may not transfer such amounts as will
7 cause the member's retirement allowance under the System to exceed the amount allowable
8 under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be
9 transferred if a transfer is elected. The member may elect a special retirement allowance with
10 no postretirement increases or a special retirement allowance with annual postretirement
11 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
12 increases on any other allowance will not apply to the special retirement allowance. The Board
13 of Trustees shall provide educational materials to the members who apply for the transfer
14 authorized by this section. Those materials shall describe the special retirement allowance and
15 shall explain (i) the relationship between the transferred balance and the monthly benefit; and
16 (ii) how the member's heirs may be impacted by the election to make this transfer and any costs
17 and fees involved.

18 For the purpose of determining the special retirement allowance, the Board of Trustees shall
19 adopt straight life annuity factors on the basis of yields on U.S. Treasury Bonds and mortality
20 and such other tables as may be necessary based upon actual experience. A single set of
21 mortality and such other tables will be used for all members, with factors differing only based
22 on the age of the member and the election of postretirement increases. The Board of Trustees
23 shall modify the mortality and such other tables every five years, as shall be deemed necessary,
24 based upon the five-year experience study as required by G.S. 128-28(o). Provided, however, a
25 member who transfers the member's eligible accumulated contributions from the Supplemental
26 Retirement Income Plan of North Carolina or the North Carolina Public Employee Deferred
27 Compensation Plan to this Retirement System shall be taxed for North Carolina State Income
28 Tax purposes on the special retirement allowance the same as if that special retirement
29 allowance had been paid directly by the Supplemental Retirement Income Plan of North
30 Carolina. The Local Governmental Employees' Retirement System shall be responsible to
31 determine the taxable amount, if any, and report accordingly.

32 The special retirement allowance shall continue for the life of the member and the
33 beneficiary designated to receive a monthly survivorship benefit under Option 2, 3 or 6 as
34 provided in G.S. 128-27(g), if any. The Board of Trustees, however, shall establish two
35 payment options that guarantee payments as follows:

36 (1) A member may elect to receive the special retirement allowance for life but
37 with payments guaranteed for a number of months to be specified by the
38 Board of Trustees. Under this plan, if the member dies before the expiration
39 of the specified number of months, the special retirement allowance will
40 continue to be paid to the member's designated beneficiary for the life of the
41 beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3 or 6 is not selected,
42 the member's designated beneficiary will receive the benefit only for the
43 remainder of the specified number of months. If the member's designated
44 beneficiary dies before receiving payments for the specified number of
45 months, any remaining payments will be paid to the member's estate.

46 (2) A member may elect to receive the special retirement allowance for life but
47 is guaranteed that the sum of the special allowance payments will equal the
48 total of the transferred amount. Under this payment option, if the member
49 dies before receiving the total transferred amount, the special retirement
50 allowance will continue to be paid to the member's designated beneficiary
51 for the life of the beneficiary, if Option 2, 3 or 6 is selected. If Option 2, 3

1 or 6 is not selected, the member's designated beneficiary or the member's
2 estate shall be paid any remaining balance of the transferred amount.

3 The Supplemental Retirement Board of Trustees established under G.S. 135-96 may assess
4 a one-time flat administrative fee not to exceed the actual cost of the administrative expenses
5 relating to these transfers.

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

10 The General Assembly reserves the right to repeal or amend this subsection, but such repeal
11 or amendment shall not affect any person who has already made the one-time election provided
12 in this subsection."

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

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

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

49 In the event that a retirement allowance becomes payable to the principal beneficiary
50 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
51 section and that beneficiary dies before the total of the retirement allowances paid equals the

1 amount of the accumulated contributions of the member at the date of the member's death, the
2 excess of those accumulated contributions over the total of the retirement allowances paid to
3 the beneficiary shall be paid in a lump sum to the person or persons the member has designated
4 as the contingent beneficiary for return of accumulated contributions, if the person or persons
5 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
6 representative. For purposes of this paragraph, the term "accumulated contributions" includes
7 amounts of employee voluntary contributions that were transferred from the Supplemental
8 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
9 law enforcement officers.

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

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

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

32 **SECTION 7.** This act becomes effective January 1, 2011. Any beneficiary who
33 retired prior to January 1, 2011, will not be allowed to make the one-time election until July 1,
34 2011. Any administrative fees accessed by the Boards of Trustees may be used to hire
35 additional personnel to administer this act.