

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2009

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HOUSE BILL 2066  
PROPOSED COMMITTEE SUBSTITUTE H2066-PCS70578-LB-94

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.



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1 Notwithstanding anything to the contrary, a member may not transfer such amounts that 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.

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

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

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

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

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

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

1 Trustees, if such person or persons are living at the time of the retiree's death, otherwise to the  
2 retiree's legal representatives, an additional death benefit equal to the excess, if any, of the  
3 employee voluntary contributions that were transferred from the Supplemental Retirement  
4 Income Plan of North Carolina or the North Carolina Public Employee Deferred Compensation  
5 Plan to this Retirement System over the total of the Special Retirement Allowances paid prior  
6 to the death of the retiree. For purposes of this paragraph, the term "accumulated contributions"  
7 excludes any amount transferred under subsection (m2) of this section.

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

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

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

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

1 persons are living at the time such payment falls due, otherwise to the retiree's legal  
2 representative.

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

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

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

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

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

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

1 allowance had been paid directly by the Supplemental Retirement Income Plan of North  
2 Carolina. The Local Governmental Employees' Retirement System shall be responsible to  
3 determine the taxable amount, if any, and report accordingly.

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

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

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

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

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

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 retirement allowances paid to  
43 the retiree and the designated survivor combined equals the amount of the accumulated  
44 contributions of the retiree at the date of retirement, the excess, if any, of such accumulated  
45 contributions over the total of the retirement allowances paid to the retiree and the survivor  
46 combined shall be paid in a lump sum to such person or persons as the retiree shall have  
47 nominated by electronic submission in a form approved by the Board of Trustees or by written  
48 designation duly acknowledged and filed with the Board of Trustees, if such person or persons  
49 are living at the time such payment falls due, otherwise to the retiree's legal representative. For  
50 purposes of this paragraph, the term "accumulated contributions" includes amounts of  
51 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.