

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

H

D

HOUSE BILL 2066
Committee Substitute Favorable 6/22/10
PROPOSED COMMITTEE SUBSTITUTE H2066-PCS50961-RO-121

Short Title: Special Retirement Allowances.

(Public)

Sponsors:

Referred to:

May 27, 2010

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

6 The General Assembly of North Carolina enacts:

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

8 "(m1) Special Retirement Allowance for Law Enforcement Officers. – Upon retirement, a
9 member who is a law enforcement officer vested as of June 30, 2010, may elect to transfer any
10 portion of his eligible accumulated contributions, not including any Roth after-tax contributions
11 and the earnings thereon, from the Supplemental Retirement Income Plan of North Carolina to
12 this Retirement System and receive, in addition to his basic service, early or disability
13 retirement allowance, a special retirement allowance which shall be based upon his eligible
14 accumulated account balance at the date of the transfer of the assets to this System. For the
15 purpose of determining the special retirement allowance, the Board of Trustees shall adopt
16 straight life annuity factors on the basis of mortality tables, such other tables as may be
17 necessary and the interest assumption rate recommended by the actuary based upon actual
18 experience including an assumed annual post-retirement allowance increase of four percent
19 (4%). The Board of Trustees shall modify such factors every five years, as shall be deemed
20 necessary, based upon the five year experience study as required by G.S. 135-6(n). Provided,
21 however, a member, who transfers his eligible accumulated contributions from the
22 Supplemental Retirement Income Plan of North Carolina, shall be taxed for North Carolina
23 State Income tax purposes on the special retirement allowance the same as if that special
24 retirement allowance had been paid directly by the Supplemental Retirement Income Plan of
25 North Carolina. The Teachers' and State Employees' Retirement System shall be responsible to
26 determine the taxable amount, if any, and report accordingly."

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

28 "(m2) Special Retirement Allowance. – At any time coincident with or following
29 retirement, a member may make a one-time election to transfer any portion of the member's
30 eligible accumulated contributions, not including any Roth after-tax contributions and the
31 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the
32 North Carolina Public Employee Deferred Compensation Plan to this Retirement System and
33 receive, in addition to the member's basic service, early or disability retirement allowance, a



* H 2 0 6 6 - P C S 5 0 9 6 1 - R O - 1 2 1 *

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

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

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

32 The special retirement allowance shall continue for the life of the member. The Board of
33 Trustees shall establish two options that guarantee payments for a period that may exceed the
34 life of the member and the member's designated beneficiary. In the first option, the member
35 may elect to receive the special retirement allowance for a guaranteed number of months to be
36 specified by the Board of Trustees. Under this option, if the member dies before the expiration
37 of the specified number of months, the special retirement allowance will continue to be paid to
38 the member's designated beneficiary for the life of the beneficiary. If the member's designated
39 beneficiary dies before the expiration of the specified number of months, any remaining
40 payments will be paid to the member's estate. In the second option, the member may elect to
41 receive the special retirement allowance until the sum of monthly payments equals the total of
42 the transferred balance. Under this second option, if the member dies before receiving the total
43 transferred balance, the special retirement allowance will continue to be paid to the member's
44 designated beneficiary for the life of the beneficiary. If the member's designated beneficiary
45 dies before receiving the total transferred balance, any remaining amount will be paid to the
46 member's estate.

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

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

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

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

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

40 In the event that a retirement allowance becomes payable to the principal beneficiary
41 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
42 section and that beneficiary dies before the total of the retirement allowances paid equals the
43 amount of the accumulated contributions of the member at the date of the member's death, the
44 excess of those accumulated contributions over the total of the retirement allowances paid to
45 the beneficiary shall be paid in a lump sum to the person or persons the member has designated
46 as the contingent beneficiary for return of accumulated contributions, if the person or persons
47 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
48 representative. For purposes of this paragraph, the term "accumulated contributions" includes
49 amounts of employee voluntary contributions that were transferred from the Supplemental
50 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
51 law enforcement officers.

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

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

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

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

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

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

44 "(m2) Special Retirement Allowance. – At any time coincident with or following
45 retirement, a member may make a one-time election to transfer any portion of the member's
46 eligible accumulated contributions, not including any Roth after-tax contributions and the
47 earnings thereon, from the Supplemental Retirement Income Plan of North Carolina or the
48 North Carolina Public Employee Deferred Compensation Plan to this Retirement System and
49 receive, in addition to the member's basic service, early or disability retirement allowance, a
50 special retirement allowance which shall be based upon the member's transferred balance.
51 Notwithstanding anything to the contrary, a member may not transfer such amounts as will

1 cause the member's retirement allowance under the System to exceed the amount allowable
2 under G.S. 128-38.2(b). The Board of Trustees may establish a minimum amount that must be
3 transferred if a transfer is elected. The member may elect a special retirement allowance with
4 no postretirement increases or a special retirement allowance with annual postretirement
5 increases equal to the annual increase in the U.S. Consumer Price Index. Postretirement
6 increases on any other allowance will not apply to the special retirement allowance. The Board
7 of Trustees shall provide educational materials to the members who apply for the transfer
8 authorized by this section. Those materials shall describe the special retirement allowance and
9 shall explain (i) the relationship between the transferred balance and the monthly benefit; and
10 (ii) how the member's heirs may be impacted by the election to make this transfer and any costs
11 and fees involved.

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

26 The special retirement allowance shall continue for the life of the member. The Board of
27 Trustees shall establish two options that guarantee payments for a period that may exceed the
28 life of the member and the member's designated beneficiary. In the first option, the member
29 may elect to receive the special retirement allowance for a guaranteed number of months to be
30 specified by the Board of Trustees. Under this option, if the member dies before the expiration
31 of the specified number of months, the special retirement allowance will continue to be paid to
32 the member's designated beneficiary for the life of the beneficiary. If the member's designated
33 beneficiary dies before the expiration of the specified number of months, any remaining
34 payments will be paid to the member's estate. In the second option, the member may elect to
35 receive the special retirement allowance until the sum of monthly payments equals the total of
36 the transferred balance. Under this second option, if the member dies before receiving the total
37 transferred balance, the special retirement allowance will continue to be paid to the member's
38 designated beneficiary for the life of the beneficiary. If the member's designated beneficiary
39 dies before receiving the total transferred balance, any remaining amount will be paid to the
40 member's estate.

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

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

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

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

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

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

36 In the event that a retirement allowance becomes payable to the principal beneficiary
37 designated to receive a return of accumulated contributions pursuant to subsection (m) of this
38 section and that beneficiary dies before the total of the retirement allowances paid equals the
39 amount of the accumulated contributions of the member at the date of the member's death, the
40 excess of those accumulated contributions over the total of the retirement allowances paid to
41 the beneficiary shall be paid in a lump sum to the person or persons the member has designated
42 as the contingent beneficiary for return of accumulated contributions, if the person or persons
43 are living at the time the payment falls due, otherwise to the principal beneficiary's legal
44 representative. For purposes of this paragraph, the term "accumulated contributions" includes
45 amounts of employee voluntary contributions that were transferred from the Supplemental
46 Retirement Income Plan of North Carolina to this Retirement System at retirement by eligible
47 law enforcement officers.

48 In the event a retiree purchases creditable service as provided in G.S. 128-26, there shall be
49 paid to such person or persons as the retiree shall have nominated by electronic submission in a
50 form approved by the Board of Trustees or by written designation duly acknowledged and filed
51 with the Board of Trustees, if such person or persons are living at the time of the retiree's death,

1 otherwise to the retiree's legal representatives, an additional death benefit equal to the excess, if
2 any, of the cost of the creditable service purchased less the administrative fee, if any, over the
3 total of the increase in the retirement allowance attributable to the additional creditable service,
4 paid from the month following the month in which payment was received to the death of the
5 retiree.

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

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

19 **SECTION 7.** This act becomes effective January 1, 2011. Any beneficiary who
20 retired prior to January 1, 2011, will not be allowed to make the one-time election until July 1,
21 2011. Any administrative fees accessed by the Boards of Trustees may be used to hire
22 additional personnel to administer this act.