

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 816*
Committee Substitute Favorable 5/7/09
PROPOSED SENATE COMMITTEE SUBSTITUTE H816-PCS70468-RO-71

Short Title: Clarify Local Special Separation Allowance.

(Public)

Sponsors:

Referred to:

March 30, 2009

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE LAW REGARDING THE SPECIAL SEPARATION
3 ALLOWANCE PROVIDED TO LAW ENFORCEMENT OFFICERS UNDER THE
4 LOCAL GOVERNMENTAL EMPLOYEES' RETIREMENT SYSTEM.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-166.42 reads as rewritten:

7 "§ 143-166.42. Special separation allowances for local officers.

8 (a) On and after January 1, 1987, ~~the provisions of G.S. 143-166.41 shall apply to all~~
9 ~~eligible law enforcement officers every sworn law enforcement officer~~ as defined by
10 G.S. 128-21(11b) or G.S. 143-166.50(a)(3) ~~who are employed by a local government~~
11 ~~employers, except as may be provided by this section. As to the applicability of the provisions~~
12 ~~of G.S. 143-166.41 to locally employed officers, the governing body for each unit of local~~
13 ~~government shall be responsible for making determinations of eligibility for their local officers~~
14 ~~retired under the provisions of G.S. 128-27(a) and for making payments to their eligible~~
15 ~~officers under the same terms and conditions, other than the source of payment, as apply to~~
16 ~~each State department, agency, or institution in payments to State officers according to the~~
17 ~~provisions of G.S. 143-166.41. government employer who qualifies under this section shall~~
18 ~~receive, beginning in the month in which the officer retires on a basic service retirement under~~
19 ~~the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five~~
20 ~~hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most~~
21 ~~recently applicable to the officer for each year of creditable service. The allowance shall be~~
22 ~~paid in equal installments on the payroll frequency used by the employer. To qualify for the~~
23 ~~allowance, the officer shall:~~

- 24 (1) Have (i) completed 30 or more years of creditable service or (ii) have
25 attained 55 years of age and completed five or more years of creditable
26 service; and
27 (2) Not have attained 62 years of age; and
28 (3) Have completed at least five years of continuous service as a law
29 enforcement officer as herein defined immediately preceding a service
30 retirement. Any break in the continuous service required by this subsection
31 because of disability retirement or disability salary continuation benefits
32 shall not adversely affect an officer's qualification to receive the allowance.



1 provided the officer returns to service within 45 days after the disability
2 benefits cease and is otherwise qualified to receive the allowance.

3 (b) As used in this section, "creditable service" means the service for which credit is
4 allowed under the retirement system of which the officer is a member, provided that at least
5 fifty percent (50%) of the service is as a law enforcement officer as herein defined.

6 (c) Payment to a retired officer under the provisions of this section shall cease at the
7 first of:

8 (1) The death of the officer;

9 (2) The last day of the month in which the officer attains 62 years of age; or

10 (3) The first day of reemployment by a local government employer in any
11 capacity.

12 Notwithstanding the provisions of subdivision (3) of this subsection, a local government
13 employer may employ retired officers in a public safety position in a capacity not requiring
14 participation in the Local Governmental Employees' Retirement System, and doing so shall not
15 cause payment to cease to those officers under the provisions of this section.

16 (d) This section does not affect the benefits to which an individual may be entitled from
17 State, local, federal, or private retirement systems. The benefits payable under this section shall
18 not be subject to any increases in salary or retirement allowances that may be authorized by
19 local government employers or for retired employees of local governments.

20 (e) The governing body of each local employer shall determine the eligibility of
21 employees for the benefits provided herein.

22 (f) The governing body of each local employer shall make the payments set forth in
23 subsection (a) of this section to those persons certified under subsection (e) of this section from
24 funds available."

25 **SECTION 2.** Nothing in this act shall be deemed to (i) entitle a law enforcement
26 officer to retroactive payments of any benefit for the period prior to the effective date of this act
27 for which the officer's employer previously determined that the officer was not entitled; (ii)
28 prospectively deny payment of an annual separation allowance to an officer who was
29 previously determined by the officer's employer to be eligible for such benefit; (iii) apply to
30 any pending litigation related to the special separation allowance; or (iv) extend the payment
31 beyond the date when payment shall cease pursuant to G.S. 143-166.42(c), as enacted by
32 Section 1 of this act.

33 **SECTION 3.** This act is effective when it becomes law and applies prospectively
34 to payments required by this act whether the officer retired before, on, or after the effective date
35 of this act.