

RESOLUTION # \_\_\_\_\_

RESOLUTION FORMALLY DETERMINING ELIGIBILITY OF LOCAL OFFICERS FOR  
SPECIAL SEPARATION ALLOWANCE BENEFITS

-----

WHEREAS, Buncombe County complies with the provisions of N.C. Gen. Stat. 143-166.42, as amended, which provides that law enforcement officers retiring before the age of sixty-two (62) are eligible for a "separation allowance" under specific conditions.

WHEREAS, Buncombe County Human Resources has historically interpreted the provisions of N.C. Gen. Stat. 143-166.42 related to "five years of continuous service" to mean continuous service with the Buncombe County Sheriff's Office (herein "BCSO").

WHEREAS, the language of N.C. Gen. Stat. 143-166.42 specifically states that "the governing body of each local employer shall determine the eligibility of employees for the benefits provided therein."

WHEREAS, this Board desires to adopt a policy regarding the administration and eligibility requirements of the the special separation allowances for BCSO employees.

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

Section 1. The Buncombe County Human Resources shall adopt a policy regarding the administration and eligibility requirements of the the special separation allowances for BCSO employees consistent with the following:

**Buncombe County  
Law Enforcement Special Separation Allowance Policy**

**All Regular full- and part-time law enforcement employees are covered under this policy.**

A. Eligibility for Separation Allowance: The County follows the provision of N.C.G.S. § 143-166.42 when determining eligibility. An officer who retires either with a minimum of 30 years of creditable service, or when 55 years old with at least 5 years creditable service, is eligible for the separation allowance if:

- a) the officer has at least 5 years of continuous service as sworn law enforcement immediately preceding retirement; and
- b) the officer has served at least 50% of his creditable service as a law enforcement officer; and
- c) the officer is under the age of 62.

**NOTE:** Buncombe County defines continuous service as having a minimum of five (5) years uninterrupted years of service with the Buncombe County Sheriff's Office (herein "BCSO"). If an

individual works for another law enforcement agency, leaves that agency and then comes to work for the BCSO, the County treats that as a break in service. The individual would need to work a minimum of five (5) years at the BCSO in a law enforcement capacity prior to retirement to be eligible for the separation allowance.

B. Calculation of Separation Allowance: The state statute currently provides that the annual separation allowance for state and local law enforcement officers is equal to .0085 times the employee's most recent base salary times years of creditable service. It is paid out in equal monthly payments. This allowance is to be paid from the time of retirement until the officer is 62 years old. Any changes in the State Statute shall supersede calculation amounts in this policy.

C. Creditable Service: In calculating the amount of the separation allowance, the County will use any service which is accepted by the Retirement System as creditable service, such as purchased military time, purchased waiting time, purchased previous service, creditable service with another local government or the State, service time added due to accrued sick leave, etc.

D. Interpreting the 50% Rule: In interpreting the requirement that at least 50% of an officer's creditable service must be served as a sworn officer, the County will apply the following principles:

a) 10 Years/50% Total: Any officer retiring with either 10 or more years of continuous creditable service as a sworn officer, or 50% of all creditable service as a sworn officer, will be considered to have satisfied the sworn service requirement.

b) Service in Another Jurisdiction: Service as a sworn officer with another jurisdiction, if accepted by the NC Retirement System as creditable service, will be counted as sworn officer time.

c) Sick Leave: Service time credited by the Retirement System due to sick leave accruals will be counted as sworn officer time.

E. How Purchased Time or Waiting Time is Used in Calculations:

a) It does not count toward the 50% requirement: Re-purchased military time, waiting time (in another occupation), or other purchased time not served as a sworn officer will not count either as Police service or as non-Police service for the purposes of determining 50%.

b) It does count toward calculating amount of allowance: This time will be used by the County in calculating the amount of the separation allowance. The state retirement system will also use this time for state retirement years of creditable service.

F. How Disability affects Eligibility: As long as the officer returns to service within 45 days after disability benefits cease, the time spent in non-(County) pay status when the officer is on either Retirement Disability or disability salary continuation benefits does not cause service to be considered 'non-continuous' for purposes of determining eligibility.

G. Payroll Deductions from Separation Allowance: The County will make all required deductions from the monthly separation allowance check including FICA, Medicare, taxes and any employee-paid health insurance.

Section 2. All resolutions or policies or portions of the same in conflict herewith are hereby repealed.

Section 3. Should any provision of this policy declared invalid or unconstitutional by any court of any competent jurisdiction, such declaration shall not affect the validity of this policy as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4. That the policies and procedures set forth in Section 1 are effective upon adoption.

This the 20<sup>th</sup> day of November, 2018.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

\_\_\_\_\_  
Lamar Joyner, Clerk

By: \_\_\_\_\_  
Brownie Newman, Chairman

APPROVED AS TO FORM

\_\_\_\_\_  
County Attorney