

MEMORANDUM

TO: Teachers' and State Employees' Retirement System Board of Trustees (TSERS Board)
Local Governmental Employees' Retirement System Board of Trustees (LGERS Board)

FROM: Patrick Kinlaw, Director of Policy, Planning, and Compliance

DATE: October 30, 2025

RE: Response to Question About S.L. 2025-8 (House Bill 50)

The Retirement Systems Division (RSD) has received questions about when accrued, unused sick leave becomes creditable service under the Local Governmental Employees' Retirement System (LGERS) and the Teachers' and State Employees' Retirement System (TSERS). We believe the reason for these questions is that employing law enforcement agencies would like to have a common understanding with RSD in their administration of the provisions of S.L. 2025-8 (House Bill 50). That legislation pertains to the Special Separation Allowance (SSA), which is not a program that RSD administers. Below we have repeated the question (paraphrasing one example of how it was asked), and the response RSD gave to the question.

QUESTION

House Bill 50 provides that if a law enforcement officer (LEO) selects the alternate SSA at retirement under the new G.S. 143-166.42(b1)(2) for local LEOs, or G.S. 143-166.41(b1)(2) for State LEOs, the officer is entitled to a SSA for a time period that is the equivalent of 62 minus the age at which the officer first completed 30 years of creditable service. G.S. 143-166.42(c)(2)b.; G.S. 143-166.41(c)(2)b. It is [the questioner's] interpretation of the law that unused sick leave may be used at retirement to calculate when the officer reached 30 years of creditable service under House Bill 50.

For example, [under the questioner's interpretation,] suppose Local Officer Doe is 48 years old when he reaches 28 years of actual service. At this time, Officer Doe has accumulated 2 years of unused sick leave that he will apply to reach 30 years of creditable service at the age of 48. Officer Doe continues to work until age 56. At retirement, Officer Doe elects the alternate SSA under G.S. 143-166.42(b1)(2). Officer Doe has two years of sick leave at his retirement that remains unused that he elected to use towards the 30 years of creditable service when he reached 48 years old with 28 years of actual service. Officer Doe will receive the alternate SSA for a period equal to 62 minus 48, or 14 years. In other words, from his retirement at age 56 until he reaches age 70 unless he dies first.

RSD RESPONSE

- **Context**

RSD does not administer the SSA for the State or for local governments. RSD does not determine eligibility or calculate benefits. The ultimate responsibility for those determinations rests with the LEOs' employers.

With hundreds of employing agencies trying to implement the same new law, they may not understand some of the details in the same way. Because RSD does not administer the SSA, it is not the proper role of RSD to enforce implementation across all the agencies.

However, we understand and appreciate that you are interested in RSD's perspective, because the statutory provisions for the SSA do refer in some places to terms like "creditable service" that are defined in LGERS and TSERS, which are programs that RSD administers.

The Department of State Treasurer (DST) was not involved in the drafting of House Bill 50. Our response below is based purely on an objective reading of House Bill 50, based on the way concepts are defined for LGERS and TSERS purposes. It should not be taken as an opinion on what is the best public policy. This response is not legal advice to any Retirement System member, employing agency, or association.

- **Analysis**

Our understanding of the "Officer Doe" example is that when he reaches age 48, he is still working, and he continues to work (does not retire) until age 56. In this situation, when he is 48, he has 28 years of membership service, or "actual service" as referred to in your message. As of age 48, he also has 2 years' worth of sick leave that he has accrued. The question is whether LGERS would consider him to have 30 years of "creditable service" at age 48, based on the combination of the 28 years of membership service and the 2 years of sick leave, even though he is still working and will not retire for several more years.

For LGERS purposes, G.S. 128-26(e) is clear that accrued unused sick leave does not become part of a member's LGERS creditable service until retirement. The effect on creditable service (if any) can only be calculated "at retirement" and is based on the amount of unused sick leave standing to the member's credit "upon retirement." In fact, if the member's last day of actual service is more than 365 days prior to their effective retirement date under LGERS, the accrued unused sick leave will not serve to increase their LGERS creditable service at all. This is an example of something that cannot be known until the member actually retires.

Therefore, LGERS would not agree that Officer Doe has 30 years of creditable service (for LGERS purposes) when he is 48. He has 28 years of membership service, and the 2 years' worth of accrued unused sick leave is not yet "creditable service" for LGERS purposes because he has not retired. For LGERS purposes, in the scenario outlined, he would reach 30 years of creditable service when he is 50, assuming he does not add to his creditable service under G.S. 128-26 in some other way in the meantime, such as by purchasing creditable service.

Again, we would emphasize that this is not RSD's opinion regarding what is the best policy, or the fairest or most lucrative outcome for the officer. And, although the question of whether he reaches 30 years of service at age 48 or 50 may influence the cost of the SSA, the impact on LGERS' finances would probably be negligible. So, we are not speaking from the standpoint of protecting LGERS' financial condition. It is, however, how we understand the terminology used in House Bill 50.

In addition to the meaning of G.S. 128-26(e), a couple of other observations underscore to us that there could be practical challenges in saying that Officer Doe reaches 30 years of creditable service at age 48:

1. What would happen if he needed to use the sick leave between age 48 and 56? For sake of illustration, suppose he needed to use the entire two years. The “age 48” reading would seem to imply that he had those two years of LGERS creditable service derived from sick leave when he was 48, but he no longer had the right to those years of creditable service once he used the sick leave.
2. Would the “age 48” reading mean that all the local governments would have to constantly monitor the amount of each officer’s sick leave as they are at 26, 27, 28, or 29 years of membership service to determine the exact date on which their membership service plus a purported sick-leave-to-creditable-service conversion allowed the officer to reach a combination of 30 years? Sick leave is being earned continuously through the officer’s service – and sometimes is being earned as it is being used. So, this would seem to create a monthly or maybe even daily administrative task for the agencies. As it stands now, the agencies only need to do the sick-leave-to-creditable-service calculation once, when the officer is retiring, based on a static sick leave balance that has stopped accruing and has stopped being used.

Although the information above is described in terms of LGERS and the local SSA (because Officer Doe in the example was a local LEO), we would have given the same response if the question were about TSERS and the State SSA, except that the relevant provision in TSERS is G.S. 135-4(e) rather than G.S. 128-26(e).

To sum up, for purposes of TSERS and LGERS, accrued unused sick leave does not become part of a person’s creditable service until that person retires.