Article 12D.

Separation Allowances for Law-Enforcement Officers.

§ 143-166.40. Rules for selection and retention of law-enforcement officers; rules exempt from Administrative Procedure Act.

(a) Except as otherwise provided by State and federal law, the head of each principal State department may establish rules and procedures for the selection and retention of sworn law-enforcement officers to ensure that they are physically, emotionally, and intellectually qualified to perform their duties. These rules and procedures shall not establish any mandatory age limit for service as a law-enforcement officer that conflicts with a federal statute.

(b) These rules and procedures are exempt from the provisions of Chapter 150B of the General Statutes. (1983 (Reg. Sess., 1984), c. 1034, s. 104; 1987, c. 827, s. 1.)

§ 143-166.41. Special separation allowance.

(a) Notwithstanding any other provision of law, every sworn law-enforcement officer as defined by G.S. 135-1(11c) or G.S. 143-166.30(a)(4) employed by a State department, agency, or institution who qualifies under this section shall receive, beginning in the month in which he retires on a basic service retirement under the provisions of G.S. 135-5(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to him for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance the officer shall:

(1) Have (i) completed 30 or more years of creditable service or, (ii) have attained 55 years of age and completed five or more years of creditable service; and

(2) Not have attained 62 years of age; and

(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

(a1) Repealed by Session Laws 2014-88, s. 3(j), effective July 30, 2014.

(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein defined or as a probation/parole officer as defined in G.S. 135-1(17a).

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

(1) The death of the officer;

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

(3) The first day of reemployment by any State department, agency, or institution, except that this subdivision does not apply to an officer returning to State employment in a position exempt from the North Carolina Human Resources Act in an agency other than the agency from which that officer retired.

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

(e) The head of each State department, agency, or institution shall determine the eligibility of employees for the benefits provided herein.

(f) The Director of the Budget may authorize from time to time the transfer of funds within the budgets of each State department, agency, or institution necessary to carry out the purposes of this Article. These funds shall be taken from those appropriated to the department, agency, or institution for salaries and related fringe benefits.

(g) The head of each State department, agency, or institution shall make the payments set forth in subsection (a) to those persons certified under subsection (e) from funds available under subsection (f). (1983 (Reg. Sess., 1984), c. 1034, s. 104; 1985, c. 479, s. 143; 1985 (Reg. Sess., 1986), c. 1014, ss. 51, 52; 2002-126, s. 28.14; 2007-69, s. 1; 2011-232, s. 9; 2013-382, s. 9.1(c); 2014-88, s. 3(j); 2017-57, s. 35.19B(b).)

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

(a) On and after January 1, 1987, every sworn law enforcement officer as defined by G.S. 128-21(11d) or G.S. 143-166.50(a)(3) employed by a local government employer who qualifies under this section shall receive, beginning in the month in which the officer retires on a basic service retirement under the provisions of G.S. 128-27(a), an annual separation allowance equal to eighty-five hundredths percent (0.85%) of the annual equivalent of the base rate of compensation most recently applicable to the officer for each year of creditable service. The allowance shall be paid in equal installments on the payroll frequency used by the employer. To qualify for the allowance, the officer shall:

(1) Have (i) completed 30 or more years of creditable service or (ii) have attained 55 years of age and completed five or more years of creditable service; and

(2) Not have attained 62 years of age; and

(3) Have completed at least five years of continuous service as a law enforcement officer as herein defined immediately preceding a service retirement. Any break in the continuous service required by this subsection because of disability retirement or disability salary continuation benefits shall not adversely affect an officer's qualification to receive the allowance, provided the officer returns to service within 45 days after the disability benefits cease and is otherwise qualified to receive the allowance.

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

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

(1) The death of the officer;

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

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

(c1) Notwithstanding the provisions of subdivision (3) of subsection (c) of this section, payments to a retired officer shall not cease when a local government employer employs a retired officer for any of the following:

(1) In a public safety position in a capacity not requiring participation in the Local Governmental Employees' Retirement System.

(2) In service to a county board of elections on an election day in a capacity that complies with G.S. 128-21(19) and does not result in cessation or suspension of the retiree's benefit from the Local Government Employees' Retirement System.

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

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

(f) The governing body of each local employer shall make the payments set forth in subsection (a) of this section to those persons certified under subsection (e) of this section from funds available. (1985 (Reg. Sess., 1986), c. 1019, s. 2; 2009-396, s. 1; 2018-25, s. 1.)

§ 143-166.43. Separation buyouts for law enforcement officers.

(a) Any State department, agency, or institution, or any local government employer, may, in its discretion, offer a lump sum separation buyout to a law enforcement officer who leaves employment prior to reaching the officer's eligibility for a separation allowance under this Article. The lump sum separation buyout shall be paid from funds available and shall not exceed the total that would otherwise be paid in separation allowance payments under G.S. 143-166.41 or G.S. 143-166.42.

(b) Prior to the transfer by a State department, agency, or institution, or any local government employer, of a lump sum separation buyout described in subsection (a) of this section to the Teachers' and State Employees' Retirement System (TSERS) pursuant to G.S. 135-5(m2) or to the Local Governmental Employees' Retirement System (LGERS) pursuant to G.S. 128-27(m2), the State department, agency, or institution, or the local government employer, shall have in place a written policy duly adopted by the employing unit that does not allow employees to choose between accepting the lump sum separation buyout as a cash payment or transferring the lump sum separation buyout to TSERS or LGERS. (2018-22, s. 1; 2021-75, s. 4.1(a).)

§ 143-166.44: Reserved for future codification purposes.

§ 143-166.45: Reserved for future codification purposes.

§ 143-166.46: Reserved for future codification purposes.

§ 143-166.47: Reserved for future codification purposes.

§ 143-166.48: Reserved for future codification purposes.

§ 143-166.49: Reserved for future codification purposes.