

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 849
PROPOSED COMMITTEE SUBSTITUTE S849-PCS75204-RC-54

Short Title: Amend Officer Salary Continuation.

(Public)

Sponsors:

Referred to:

May 22, 2012

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SALARY CONTINUATION LAWS TO PROVIDE THAT ONLY OFFICERS INJURED AND INCAPACITATED AS THE RESULT OF EXTREME ACTIVITY IN THE COURSE OF PERFORMING THEIR OFFICIAL DUTIES RECEIVE A HIGHER COMPENSATION RATE FOR THE TWO-YEAR PERIOD BEFORE REVERTING TO THE RATES PROVIDED UNDER THE WORKERS' COMPENSATION LAWS, AS RECOMMENDED BY THE JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON JUSTICE AND PUBLIC SAFETY.

The General Assembly of North Carolina enacts:

SECTION 1. Article 12B of Chapter 143 of the General Statutes reads as rewritten:

"Article 12B.

"Salary Continuation Plan for Certain State Law-Enforcement Officers.

"§ 143-166.13. Persons entitled to benefits under Article.

(a) The following persons who are subject to the Criminal Justice Training and Standards Act are entitled to benefits under this Article:

- (1) State Government Security Officers, Department of Administration;
- (2) State Correctional Officers, Division of Adult Correction of the Department of Public Safety;
- (3) State Probation and Parole Officers, Division of Adult Correction of the Department of Public Safety;
- (4) Sworn State Law-Enforcement Officers with the power of arrest, Division of Adult Correction of the Department of Public Safety;
- (5) Alcohol Law-Enforcement Agents, Department of Public Safety;
- (6) State Highway Patrol Officers, Department of Public Safety;
- (7) General Assembly Special Police, General Assembly;
- (8) Sworn State Law-Enforcement Officers with the power of arrest, Department of Health and Human Services;
- (9) Juvenile Justice Officers, Division of Juvenile Justice of the Department of Public Safety;
- (10) Insurance Investigators, Department of Insurance;
- (11) State Bureau of Investigation Officers and Agents, Department of Justice;
- (12) Director and Assistant Director, License and Theft Enforcement Section, Division of Motor Vehicles, Department of Transportation;



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- 1 (13) Members of License and Theft Enforcement Section, Division of Motor
2 Vehicles, Department of Transportation, designated by the Commissioner of
3 Motor Vehicles as either "inspectors" or uniformed weigh station personnel;
4 (14) Utilities Commission Transportation Inspectors and Special Investigators;
5 (15) North Carolina Ports Authority Police, Department of Transportation;
6 (16) Sworn State Law-Enforcement Officers with the power of arrest,
7 Department of Environment and Natural Resources;
8 (17) Sworn State Law-Enforcement Officers with the power of arrest,
9 Department of Public Safety.
10 (18) Sworn State Law-Enforcement Officers with the power of arrest,
11 Department of Revenue.
12 (19) Sworn State Law-Enforcement Officers with the power of arrest, University
13 System.

14 (b) The following persons are entitled to benefits under this Article regardless of
15 whether they are subject to the Criminal Justice Training and Standards Act:

- 16 (1) Driver License Examiners injured by accident arising out of and in the
17 course of giving a road test, Division of Motor Vehicles, Department of
18 Transportation;
19 (2) Employees of the Division of Adult Correction of the Department of Public
20 Safety injured by a direct and deliberate act of an offender supervised by the
21 Division or while performing supervisory duties over offenders which place
22 the employees at risk of such injury.

23 (c) As used in this Article, the term "eligible person" or "person" shall mean any
24 individual listed under subsection (a) or (b) of this section.

25 **"§ 143-166.14. Payment of salary notwithstanding incapacity; Workers' Compensation**
26 **Act applicable after two years; duration of payment.**

27 The salary of any ~~of the above listed persons~~ eligible person shall be paid as long as ~~his the~~
28 person's employment in that position continues, notwithstanding ~~his the person's~~ total or partial
29 incapacity to perform any duties to which ~~he the person~~ may be lawfully assigned, if that
30 incapacity is the result of an injury ~~by accident or an occupational disease arising out of and in~~
31 the course of the performance by him of his or injuries due to extreme activity which occurred
32 in the course and scope of the eligible person's official duties, except if that incapacity
33 continues for more than two years from its inception, the person shall, during the further
34 continuance of that incapacity, be subject to the provisions of Chapter 97 of the General
35 Statutes pertaining to workers' compensation. Salary paid to ~~a an eligible~~ person pursuant to
36 this Article shall cease upon the resumption of ~~his the person's~~ regularly assigned duties,
37 retirement, resignation, or death, whichever first occurs, except that temporary return to duty
38 shall not prohibit payment of salary for a subsequent period of incapacity which can be shown
39 to be directly related to the original injury.

40 **"§ 143-166.15. Application of § 97-27; how payments made.**

41 Notwithstanding the provisions of G.S. 143-166.14 of this Article, the persons entitled to
42 benefits shall be subject to the provisions of G.S. 97-27 during the two-year period of payment
43 of full salary. All payments of salary shall be made at the same time and in the same manner as
44 other salaries are paid to other persons in the same department.

45 **"§ 143-166.16. Effect on workers' compensation and other benefits; application of §**
46 **97-24.**

47 The provisions of G.S. 143-166.14 shall be in lieu of all compensation provided for the first
48 two years of incapacity by G.S. 97-29 and 97-30, but shall be in addition to any other benefits
49 or compensation to which such person shall be entitled under the provisions of the Workers'
50 Compensation Act. The provisions of G.S. 97-24 will commence at the end of the two-year
51 period for which salary is paid pursuant to G.S. 143-166.14.

1 **"§ 143-166.17. Period of incapacity not charged against sick leave or other leave.**

2 The period for which the salary of any person is paid pursuant to G.S. 143-166.14 while ~~he~~
3 ~~the person~~ is incapacitated as a result of an injury ~~by accident or an occupational disease arising~~
4 ~~out of and in the course of the performance by him of his~~ or injuries due to extreme activity
5 which occurred in the course and scope of the eligible person's official duties, shall not be
6 charged against any sick or other leave to which ~~he~~ the person shall be entitled under any other
7 provision of law.

8 **"§ 143-166.18. Report of incapacity.**

9 Any person designated in G.S. 143-166.13, who, as a result of an injury ~~by accident arising~~
10 ~~out of and in the course of the performance by him of his~~ or injuries due to extreme activity
11 which occurred in the course and scope of the eligible person's official duties, is totally or
12 partially incapacitated to perform any duties to which ~~he~~ the person may be lawfully assigned,
13 shall report the incapacity as soon as practicable in the manner required by the secretary or
14 other head of the department to which the agency is assigned by statute.

15 **"§ 143-166.19. Determination of cause and extent of incapacity; hearing before Industrial
16 Commission; appeal; effect of refusal to perform duties.**

17 Upon the filing of the report, the secretary or other head of the department or, in the case of
18 the General Assembly, the Legislative Services Officer, shall determine the cause of the
19 incapacity and to what extent the claimant may be assigned to other than ~~his~~ the claimant's
20 normal duties. The finding of the secretary or other head of the department shall determine the
21 right of the claimant to benefits under this Article. Notice of the finding shall be filed with the
22 North Carolina Industrial Commission. ~~Unless the claimant, within 30 days after he receives~~
23 ~~notice, files with the North Carolina Industrial Commission, upon the form it shall require, a~~
24 ~~request for a hearing, the finding of the secretary or other department head shall be final.~~ The
25 finding of the secretary or other department head shall be final unless the claimant, within 30
26 days of receipt of the notice, files a request for a hearing with the North Carolina Industrial
27 Commission using a form required by the Commission. Upon the filing of a request, the North
28 Carolina Industrial Commission shall proceed to hear the matter in accordance with its
29 regularly established procedure for hearing claims filed under the Worker's Compensation Act,
30 and shall report its findings to the secretary or other head of the department. From the decision
31 of the North Carolina Industrial Commission, an appeal shall lie as in other matters heard and
32 determined by the Commission. Any person who refuses to perform any duties to which ~~he~~ the
33 person may be properly assigned as a result of the finding of the secretary, other head of the
34 department or of the North Carolina Industrial Commission shall be entitled to no benefits
35 pursuant to this Article as long as the refusal continues.

36 **"§ 143-166.20. Subrogation.**

37 The same rights and remedies set forth in G.S. 97-10.2 shall apply in all third party liability
38 cases occurring under this Article, including cases involving the right of the affected State
39 agency to recover the salary paid to an injured officer during ~~his~~ the officer's period of
40 disability."

41 **SECTION 2.** This act becomes effective October 1, 2012, and applies to incapacity
42 commencing on or after that date.