

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

H

D

HOUSE BILL 1048\*  
Committee Substitute Favorable 5/29/14  
Third Edition Engrossed 6/3/14  
PROPOSED SENATE COMMITTEE SUBSTITUTE H1048-PCS40273-RK-88

Short Title: AG Selection Criteria/NCNG Amendments.

(Public)

Sponsors:

Referred to:

May 15, 2014

A BILL TO BE ENTITLED

AN ACT TO AMEND THE SELECTION CRITERIA FOR ADJUTANT GENERAL OF THE NORTH CAROLINA NATIONAL GUARD, TO ADD AN ASSISTANT ADJUTANT GENERAL FOR THE NORTH CAROLINA NATIONAL GUARD, TO INCREASE NATIONAL GUARD FLEXIBILITY WITH RESPECT TO CERTAIN CAPITAL PROJECTS, AND TO ALLOW FOR ADDITIONAL USES OF FAMILY ASSISTANCE CENTER FUNDS FOR SURVIVING FAMILY MEMBERS OF DECEASED NATIONAL GUARD SERVICEMEMBERS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 127A-19 reads as rewritten:

**"§ 127A-19. Adjutant General.**

(a) The military head of the militia shall be the Adjutant General who shall hold the rank of major general-general with federal recognition at time of appointment or attain the rank of major general pursuant to this section. The Adjutant General shall be appointed by the Governor in the Governor's capacity as commander in chief of the militia, in consultation with the Secretary of Public Safety, and shall serve at the pleasure of the Governor. No person shall be appointed as Adjutant General who has less than five years' commissioned service in an active status in any component of the Armed Forces of the United States. The Adjutant General, while holding this office, may shall be a member of the active North Carolina National Guard or naval militia-Guard. If an appointed Adjutant General does not attain the rank of major general with federal recognition within a reasonable period of time from the date of appointment, the Governor shall replace the Adjutant General with an appointee who meets the criteria in this section. A "reasonable period of time" shall take into account time in grade requirements for promotion or promotions and administrative periods necessary to complete the promotion process.

(b) In order to be eligible for appointment as Adjutant General, a person shall be a resident of the State of North Carolina and meet all of the following requirements:

- (1) The person shall have a total of at least 10 years of commissioned service in any component or components of the Armed Forces of the United States.
- (2) The person shall have a minimum of three years commissioned service in the North Carolina Army or Air National Guard within the six-year period previous to the appointment date.
- (3) The person, at the time of appointment, shall be one of the following:



\* H 1 0 4 8 - P C S 4 0 2 7 3 - R K - 8 8 \*

- 1           a.     A major general with federal recognition or who is eligible for  
2                 federal recognition.  
3           b.     A brigadier general with federal recognition or who is eligible for  
4                 federal recognition and who is eligible for promotion to major  
5                 general with federal recognition.  
6           c.     A colonel with federal recognition or who is eligible for federal  
7                 recognition; who is eligible for promotion and federal recognition as  
8                 a brigadier general; and who is eligible for promotion to major  
9                 general with federal recognition.

10           (4)    The person shall have completed all service school or other criteria for  
11                 promotion to general officer with federal recognition.

12           (5)    The person shall have a minimum of 12 months in command of either (i) a  
13                 North Carolina National Guard unit or (ii) a unit in any component of the  
14                 Armed Forces of the United States.

15           (c)    Subject to the approval of the Governor and in consultation with the Secretary of  
16 Public Safety, the Adjutant General may ~~appoint (i) a deputy adjutant general who may hold~~  
17 ~~the rank of major general, and (ii) an assistant adjutant general for Army National Guard, and~~  
18 ~~an assistant adjutant general for Air National Guard, each of whom may hold the rank of~~  
19 ~~brigadier general and who shall serve at the pleasure of the Governor. The Adjutant General~~  
20 ~~may also employ staff members and other personnel as authorized by the Secretary and~~  
21 ~~funded.~~appoint:

22           (1)    A deputy adjutant general, who may hold the same rank as the Adjutant  
23                 General.

24           (2)    Two assistant adjutants general for the Army National Guard and an  
25                 assistant adjutant general for the Air National Guard, each of whom may  
26                 hold the rank of brigadier general.

27 The appointees authorized by this subsection shall serve at the pleasure of the Governor. The  
28 Adjutant General may also employ staff members and other personnel as authorized by the  
29 Secretary and funded."

30           **SECTION 2.(a)** If Section 36.5 of Senate Bill 744, 2013 Regular Session, or  
31 substantially similar legislation, becomes law, then G.S. 143C-8-12, as rewritten by that act,  
32 reads as rewritten:

33 **"§ 143C-8-12. ~~University system capital~~Capital improvement projects from sources that**  
34 **are not General Fund sources: approval of new project or change in scope of**  
35 **existing project.~~other than the General Fund.~~**

36           (a)    University Projects. – Notwithstanding any other provision of this Chapter, the  
37 Board of Governors of The University of North Carolina may approve: (i) expenditures to plan  
38 a capital improvement project of The University of North Carolina the planning for which is to  
39 be funded entirely with non-General Fund money, (ii) expenditures for a capital improvement  
40 project of The University of North Carolina that is to be funded and operated entirely with  
41 non-General Fund money, or (iii) a change in the scope of any previously approved capital  
42 improvement project of The University of North Carolina provided that both the project and  
43 change in scope are funded entirely with non-General Fund money. The Board of Governors  
44 shall report any expenditure made pursuant to this section to the Office of State Budget and  
45 Management and to the Joint Legislative Commission on Governmental Operations.approve  
46 any of the following:

47           (1)    Expenditures to plan a capital improvement project of The University of  
48                 North Carolina, the planning for which is to be funded entirely with  
49                 non-General Fund money.

1           (2)   Expenditures for a capital improvement project of The University of North  
2           Carolina that is to be funded and operated entirely with non-General Fund  
3           money.

4           (3)   A change in the scope of any previously approved capital improvement  
5           project of The University of North Carolina, provided that both the project  
6           and change in scope are funded entirely with non-General Fund money.

7           (b)   Carryforward Funds. – For purposes of this section, the term 'non-General Fund  
8 money' includes funds carried forward from one fiscal year to another pursuant to  
9 G.S. 116-30.3 and G.S. 116-30.3B. These funds shall only be used for projects listed in  
10 G.S. 143C-4-3(b).

11          (c)   National Guard Projects. – Notwithstanding any other provision of this Chapter, the  
12 North Carolina National Guard may approve expenditures for a capital project of the North  
13 Carolina National Guard but only if (i) the project will be funded entirely with federal funds  
14 and (ii) any operating costs associated with the project will be paid entirely with federal funds.

15          (d)   Reporting. – The Board of Governors and the National Guard shall report any  
16 expenditure made pursuant to this section to the Office of State Budget and Management and to  
17 the Joint Legislative Commission on Governmental Operations."

18           **SECTION 2.(b)** If Section 36.5 of Senate Bill 744, 2013 Regular Session, or  
19 substantially similar legislation, does not become law, then G.S. 143C-8-12 reads as rewritten:

20           "**§ 143C-8-12. University system capital improvement projects from sources that are not**  
21           **General Fund sources: approval of new project or change in scope of existing**  
22           **project.**

23           (a)   Notwithstanding any other provision of this Chapter, the Board of Governors of The  
24 University of North Carolina may approve: (i) expenditures to plan a capital improvement  
25 project of The University of North Carolina the planning for which is to be funded entirely with  
26 non-General Fund money, (ii) expenditures for a capital improvement project of The University  
27 of North Carolina that is to be funded and operated entirely with non-General Fund money, or  
28 (iii) a change in the scope of any previously approved capital improvement project of The  
29 University of North Carolina provided that both the project and change in scope are funded  
30 entirely with non-General Fund money. ~~The Board of Governors shall report any expenditure~~  
31 ~~made pursuant to this section to the Office of State Budget and Management and to the Joint~~  
32 ~~Legislative Commission on Governmental Operations.~~

33           (b)   National Guard Projects. – Notwithstanding any other provision of this Chapter, the  
34 North Carolina National Guard may approve expenditures for a capital project of the North  
35 Carolina National Guard but only if (i) the project will be funded entirely with federal funds  
36 and (ii) any operating costs associated with the project will be paid entirely with federal funds.

37           (c)   Reporting. – The Board of Governors and the National Guard shall report any  
38 expenditure made pursuant to this section to the Office of State Budget and Management and to  
39 the Joint Legislative Commission on Governmental Operations."

40           **SECTION 2.(c)** Section 36.11(c) of S.L. 2013-360 reads as rewritten:

41           "**SECTION 36.11.(c)** Where the actual costs are different from the estimated costs under  
42 subsection (a) of this section, the Adjutant General of the National Guard may adjust the  
43 allocations among projects as needed. However, State funds shall not be allocated to a project  
44 in excess of the maximum amount of State funds authorized to be allocated to the project under  
45 subsection (a) of this section. If any projects funded under subsection (a) of this section are  
46 delayed or cancelled and the budgeted State funds cannot be used during the 2013-2015 fiscal  
47 biennium, or if the projects funded under subsection (a) of this section are accomplished at a  
48 lower cost, the Department may use the resulting fund availability to fund any of the following:

49           (1)   Future project feasibility studies.

50           (2)   Survey, testing, and permitting.

51           (3)   Planning and execution for reversion of facilities no longer in use.

1           (4) Armory and facilities projects approved by the Congress of the United States  
2           that are not listed in subsection (a) of this section and that require  
3           State-matching funds."

4           **SECTION 2.(d)** Article 8 of Chapter 143 of the General Statutes is amended by  
5 adding a new section to read:

6 **"§ 143-129.6. Exemption for certain training projects of the North Carolina National**  
7 **Guard.**

8           Expenditures, excluding design fees, for a capital project, construction, or repair work (i)  
9 that is for training purposes and for a single exercise or undertaking at a National Guard  
10 facility; (ii) that has a total cost that does not exceed applicable federal limits; and (iii) that will  
11 be funded entirely with federal funds, shall not be subject to this Article."

12           **SECTION 3.** The North Carolina National Guard may use funds appropriated to it  
13 for Family Assistance Centers for expenses related to support of surviving family members of  
14 deceased members of the North Carolina National Guard, including, but not limited to, the  
15 costs of providing educational materials; workshops; outreach events; and invitational travel,  
16 including per diem and other travel-related expenses.

17           **SECTION 4.** Section 1 of this act is effective for appointments on or after the  
18 effective date of this act. Sections 2 and 3 become effective July 1, 2014. The remainder of this  
19 act is effective when it becomes law.