

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

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HOUSE BILL 340
PROPOSED SENATE COMMITTEE SUBSTITUTE H340-PCS40670-TT-51

Short Title: Amend Appt For Compact on Education/Military. (Public)

Sponsors:

Referred to:

March 13, 2019

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE AN EMPLOYMENT PREFERENCE FOR ELIGIBLE MEMBERS OF
3 THE NATIONAL GUARD.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 16 of Chapter 127A of the General Statutes reads as rewritten:

6 "ARTICLE 16.

7 "NATIONAL GUARD EMPLOYMENT AND REEMPLOYMENTS RIGHTS.

8"

9 **SECTION 2.** Article 16 of Chapter 127A of the General Statutes is amended by
10 adding a new section to read:

11 "**§ 127A-200.5 Declaration of policy.**

12 It shall be the policy of the State of North Carolina that, in appreciation for service to this
13 State and this country, preference in employment with every State department, agency, and
14 institution shall be granted to eligible members of the National Guard as defined in
15 G.S. 126-81(2a). Private, nonpublic employers in the State are encouraged to provide a
16 preference to eligible members of the National Guard. Granting of this preference is not a
17 violation of any State or local equal employment opportunity law."

18 **SECTION 3.** G.S. 127A-17.1 reads as rewritten:

19 "**§ 127A-17.1. Confidentiality of National Guard records.**

20 Notwithstanding any provision of Chapter 143B of the General Statutes, no records of the
21 North Carolina National Guard in the Department of Public Safety shall be disclosed or used for
22 any purpose except for official purposes, and no records shall be disclosed, destroyed or used in
23 any manner which is in violation of any existing federal law or regulation. An official purpose
24 may include substantiation of eligibility for a National Guard preference, provided in
25 G.S. 126-80.5. Nothing in this Chapter shall convert records which are the property of the federal
26 government into State property."

27 **SECTION 4.** G.S. 126-81 reads as rewritten:

28 "**§ 126-81. Definitions.**

29 As used in this Article:

30 ...

31 (2) "Veteran" means a person who served in the Armed Forces of the United
32 States on active duty, for reasons other than training, and has been discharged
33 under other than dishonorable conditions.

34 (2a) "Eligible member of the National Guard" means a resident of North Carolina
35 who is a member of the North Carolina National Guard or the National Guard
36 of another state, or a person who has been discharged under other than



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1 dishonorable conditions from the North Carolina National Guard or the
2 National Guard of another state.

- 3 (3) "Eligible veteran" means:
4 a. A veteran who served during a period of war; or
5 b. The spouse of a disabled veteran; or
6 c. The surviving spouse or dependent of a veteran who dies on active
7 duty during a period of war either directly or indirectly as a result of
8 such service; or
9 d. A veteran who suffered a service-connected disability during
10 peacetime; or
11 e. The spouse of a veteran described in subdivision d. of this subsection;
12 or
13 f. The surviving spouse or dependent of a person who served in the
14 Armed Forces of the United States on active duty, for reasons other
15 than training, who died for service-related reasons during peacetime."

16 **SECTION 5.** Article 13 of Chapter 126 of the General Statutes reads as rewritten:

17 "ARTICLE 13.

18 "~~VETERAN'S VETERAN AND NATIONAL GUARD PREFERENCE.~~

19"

20 **SECTION 6.** Article 13 of Chapter 126 of the General Statutes is amended by adding
21 a new section to read:

22 "**§ 126-80.5. National Guard preference.**

23 (a) It shall be the policy of the State of North Carolina that, in appreciation for service to
24 the State of North Carolina and this country, and in recognition of the time and advantage lost
25 toward the pursuit of a civilian career, an eligible member of the National Guard as defined in
26 G.S. 126-81(2a) shall be granted preference in employment for positions subject to the provisions
27 of this Chapter with every State department, agency, and institution.

28 (b) Hereafter, in all evaluations of applicants for positions with this State or any of its
29 departments, institutions, or agencies, a preference shall be awarded to all eligible members of
30 the National Guard who are citizens of the State. This preference applies to initial employment
31 with the State and extends to other employment events including subsequent hirings, promotions,
32 reassignments, and horizontal transfers.

33 (c) The provisions of this section shall be subject to the provisions of Article 9 of Chapter
34 143B of the General Statutes."

35 **SECTION 7.** G.S. 126-82 reads as rewritten:

36 "**§ 126-82. State Human Resources Commission to provide for preference.**

37 (a) The State Human Resources Commission shall provide that in evaluating the
38 qualifications of an eligible veteran or eligible member of the National Guard, against the
39 minimum requirements for obtaining a position, credit shall be given for all military service
40 training or schooling and experience that bears a reasonable and functional relationship to the
41 knowledge, skills, and abilities required for the position. This preference applies to initial
42 employment with the State and extends to other employment events including subsequent hirings,
43 promotions, reassignments, and horizontal transfers.

44 (b) The State Human Resources Commission shall provide that if an eligible veteran or
45 eligible member of the National Guard, has met the minimum requirements for the position, after
46 receiving experience credit under subsection (a) of this section, he or she shall receive experience
47 credit as determined by the Commission for additional related and unrelated military service.
48 This preference applies to initial employment with the State and extends to other employment
49 events including subsequent hirings, promotions, reassignments, and horizontal transfers.

1 (c) The State Human Resources Commission may provide that in reduction in force
2 situations where seniority or years of service is one of the considerations for retention, an eligible
3 veteran or eligible member of the National Guard, shall be accorded credit for military service.

4 (d) Any eligible veteran or eligible member of the National Guard, who has reason to
5 believe that he or she did not receive a ~~veteran's~~ preference in accordance with the provisions of
6 this Article or rules adopted under it may appeal that denial as provided by G.S. 126-34.01 and
7 G.S. 126-34.02.

8 (e) The willful failure of any employee subject to the provisions of Article 8 of this
9 Chapter to comply with the provisions of this Article or rules adopted under it constitutes
10 personal misconduct in accordance with the provisions and promulgated rules of this Chapter,
11 including those for suspension, demotion, or dismissal."

12 **SECTION 8.** G.S. 126-34.02 reads as rewritten:

13 "**§ 126-34.02. Grievance appeal process; grounds.**

14 ...

15 (b) The following issues may be heard as contested cases after completion of the agency
16 grievance procedure and the Office of State Human Resources review:

17 ...

18 (4) Veteran's preference. – An applicant for State employment or a State
19 employee may allege that he or she was denied veteran's preference in
20 violation of the law.

21 (4a) National Guard preference. – An applicant for State employment or a State
22 employee may allege that he or she was denied a National Guard preference
23 in violation of the law.

24"

25 **SECTION 9.** The State Human Resources Commission and State agencies,
26 departments, and institutions shall adopt rules to implement this act.

27 **SECTION 10.** This act is effective when it becomes law and applies to positions
28 posted on or after that date.