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Short Title: AG Selection Criteria/NCNG Amendments.

(Public)

Sponsors:

Referred to:

May 15, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE SELECTION CRITERIA FOR ADJUTANT GENERAL OF THE
3 NORTH CAROLINA NATIONAL GUARD, TO ADD AN ASSISTANT ADJUTANT
4 GENERAL FOR THE NORTH CAROLINA NATIONAL GUARD, TO INCREASE
5 NATIONAL GUARD FLEXIBILITY WITH RESPECT TO CERTAIN CAPITAL
6 PROJECTS, AND TO ALLOW FOR ADDITIONAL USES OF FAMILY ASSISTANCE
7 CENTER FUNDS FOR SURVIVING FAMILY MEMBERS OF DECEASED
8 NATIONAL GUARD SERVICEMEMBERS.

9 The General Assembly of North Carolina enacts:

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

11 **"§ 127A-19. Adjutant General.**

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

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

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



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- 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~~ appoint:
17 (1) A deputy adjutant general, who may hold the same rank as the Adjutant
18 General.
19 (2) Two assistant adjutants general for the Army National Guard and an
20 assistant adjutant general for the Air National Guard, each of whom may
21 hold the rank of brigadier general.

22 The appointees authorized by this subsection shall serve at the pleasure of the Governor. The
23 Adjutant General may also employ staff members and other personnel as authorized by the
24 Secretary and funded.

25 ~~(i) a deputy adjutant general who may hold the rank of major general, and (ii) an assistant~~
26 ~~adjutant general for Army National Guard, and an assistant adjutant general for Air National~~
27 ~~Guard, each of whom may hold the rank of brigadier general and who shall serve at the~~
28 ~~pleasure of the Governor. The Adjutant General may also employ staff members and other~~
29 ~~personnel as authorized by the 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**~~University system 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.

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

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

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

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

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

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

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

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

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

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

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

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

(1) Future project feasibility studies.

(2) Survey, testing, and permitting.

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

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

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

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

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

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

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