

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

**HOUSE BILL 609
RATIFIED BILL**

AN ACT AWARDING LEGISLATIVELY MANDATED SALARY INCREASES AND
SPECIAL ANNUAL LEAVE TO STATE ADULT CORRECTIONAL FACILITY
EMPLOYEES.

The General Assembly of North Carolina enacts:

PART I. APPROPRIATIONS

SECTION 1.1.(a) There is appropriated from the General Fund to the Department of Public Safety (DPS) the sum of thirty-five million nine hundred fourteen thousand seven hundred thirty-four dollars (\$35,914,734) in recurring funds for the 2019-2020 fiscal year and the sum of fifty-six million eight hundred twenty-nine thousand four hundred sixty-eight dollars (\$56,829,468) in recurring funds for the 2020-2021 fiscal year to award compensation increases to State adult correctional facility employees in accordance with the provisions of this act. Of the funds appropriated in this subsection, the sum of fifteen million dollars (\$15,000,000) in recurring funds shall be used to provide salary supplements to employees in high-need correctional facilities in accordance with Part IV of this act.

SECTION 1.1.(b) State funds, as defined in G.S. 143C-1-1(d)(25), are appropriated for each year of the 2019-2021 fiscal biennium, as agency receipts up to the amounts needed to implement the legislatively mandated salary increases provided in this act for each year of the 2019-2021 fiscal biennium.

PART II. ELIGIBLE EMPLOYEES AWARDED LEGISLATIVE SALARY INCREASES/EFFECTIVE JULY 1, 2019, AND JULY 1, 2020

SECTION 2.1.(a) Effective July 1, 2019, a State employee who (i) is employed in a position based in one or more State adult correctional facilities and (ii) was employed in a State-funded position on June 30, 2019, is awarded:

- (1) A legislative salary increase in the amount of two and one-half percent (2.5%) of annual salary in the 2019-2020 fiscal year.
- (2) Any salary adjustment otherwise allowed or provided by law.

SECTION 2.1.(a1) Effective July 1, 2020, a State employee who (i) is employed in a position based in one or more State adult correctional facilities and (ii) was employed in a State-funded position on June 30, 2020, is awarded:

- (1) A legislative salary increase in the amount of two and one-half percent (2.5%) of annual salary in the 2020-2021 fiscal year.
- (2) Any salary adjustment otherwise allowed or provided by law.

SECTION 2.1.(b) Part-time employees shall receive the increases authorized by this section on a prorated and equitable basis.

SECTION 2.1.(c) No eligible State-funded employee shall be prohibited from receiving the full salary increases provided in this section solely because the employee's salary after applying the legislative increase is above the maximum of the salary range prescribed by the State Human Resources Commission.



SECTION 2.2. The legislative salary increases provided by this act in each year of the 2019-2021 fiscal biennium do not apply to persons separated from service due to resignation, dismissal, reduction in force, death, or retirement or whose last workday is prior to June 30, 2019, for the 2019-2020 fiscal year or June 30, 2020, for the 2020-2021 fiscal year. For the 2019-2021 fiscal biennium, payroll checks issued to employees after July 1, 2019, and July 1, 2020, respectively, that represent payment of services provided prior to July 1 of each year shall not be eligible for salary increases provided for in this act.

SECTION 2.3. Funds appropriated by this act may not be used to adjust the budgeted salaries of vacant positions, to provide salary increases in excess of those required by the General Assembly, or to increase the budgeted salary of filled positions to the minimum of the position's respective salary range unless otherwise specifically provided by law.

SECTION 2.4. Any funds appropriated for legislatively mandated salary increases in excess of the amounts required to implement the increases authorized by this act shall be credited to the Pay Plan Reserve established within the General Fund by G.S. 143C-4-9.

SECTION 2.5. No later than May 1, 2020, for the 2019-2020 fiscal year, and subsequently May 1, 2021, for the 2020-2021 fiscal year, the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations and the Fiscal Research Division on the expenditure of funds under this act. This report shall include at least the following information:

- (1) The total amount of funds that the Department received for legislative salary increases.
- (2) The total amount of funds used by the Department for legislative increases.
- (3) The amount of funds credited to the Pay Plan Reserve.

PART III. CONTINUE CORRECTIONAL OFFICERS/CUSTODY-BASED PAY DIFFERENTIAL

SECTION 3.1. Until otherwise provided by the General Assembly, whenever an employee is in a Correctional Officer position assigned to a lower custody level facility and the employee is required to staff a higher custody level facility for any period of time, the employee shall receive a pay differential applied to their base salary for the period of time the employee worked at the higher custody level facility, as follows:

- (1) For employees assigned to minimum custody facilities that are required to staff medium custody facilities, the pay differential is ten percent (10%).
- (2) For employees assigned to medium custody facilities that are required to staff close custody facilities, the pay differential is ten percent (10%).
- (3) For employees assigned to minimum custody facilities that are required to staff close custody facilities, the pay differential is twenty percent (20%).

PART IV. CORRECTIONAL FACILITY HIGH-NEED SALARY SUPPLEMENTS

SECTION 4.1.(a) Employees of the Department of Public Safety (Department) serving in high-need correctional facilities having the highest numbers of vacant positions are eligible to receive flat-dollar salary supplements, payable monthly, for up to a two-year period.

SECTION 4.1.(b) The base supplement rate shall be an amount calculated by the Department based on the requirements of this section. The minimum base supplement rate that shall be provided to employees serving in a high-need correctional facility is two thousand five hundred dollars (\$2,500) annually.

SECTION 4.1.(c) There are three levels of high-need correctional facilities based upon the facility's respective staffing difficulty:

- (1) Level I – If the correctional facility has had a vacancy rate of at least twenty percent (20%) for at least 12 months in the prior biennium, employees

assigned to this facility shall receive a salary supplement equal to the base supplement rate.

- (2) Level II – If the correctional facility has had a vacancy rate of at least twenty-five percent (25%) for at least 12 months in the prior biennium, employees assigned to this facility shall receive a salary supplement equal to twice the base supplement rate.
- (3) Level III – If the correctional facility has had a vacancy rate of at least thirty percent (30%) for at least 12 months in the prior biennium, employees assigned to this facility shall receive a salary supplement equal to three times the base supplement rate.

SECTION 4.1.(d) The salary supplement rates assigned to each high-need correctional facility at the beginning of each fiscal biennium by the Department shall remain in effect for the facility throughout the respective fiscal biennium. The Department shall re-designate high-need facilities at the beginning of each subsequent fiscal biennium based on the criteria in subsections (b) and (c) of this section.

SECTION 4.1.(e) The Department may exclude a facility from eligibility to prioritize larger supplements to greater-need facilities or if the vacancy rate does not accurately reflect a facility's actual staffing needs. The Department may assign a lower level to a facility if the assignment would more accurately reflect the facility's needs. The Department shall not provide supplements in facilities that do not meet the minimum criteria specified in subsection (c) of this section.

SECTION 4.1.(f) Funds appropriated for high-need facility salary supplements may only be expended for that purpose. At the end of each fiscal year, any remaining funding appropriated for the supplements shall be distributed proportionally to employees at high-need facilities who were employed at a designated facility for the entire fiscal year.

SECTION 4.1.(g) Notwithstanding G.S. 135-1(7a), the supplements awarded pursuant to this section are not compensation under Article 1 of Chapter 135 of the General Statutes, Retirement System for Teachers and State Employees.

PART V. SPECIAL ANNUAL LEAVE

SECTION 5.1. Special Annual Leave. – Any person who is (i) employed in an adult correctional facility as a full-time permanent employee of the Department of Public Safety on July 1, 2019, and (ii) eligible to earn annual leave shall have a one-time additional five days of annual leave credited on July 1, 2019.

The additional leave granted in this section shall be accounted for separately in the same manner as the leave provided by Section 35.26 of S.L. 2018-5 and shall remain available during the length of the employee's employment, notwithstanding any other limitation on the total number of days of annual leave that may be carried forward. Part-time permanent employees shall receive a pro rata amount of the five days awarded by this section.

The additional leave awarded under this section has no cash value and is not eligible for cash in. If not used prior to the time of separation or retirement, the bonus leave cannot be paid out and is lost.

Notwithstanding any provision of G.S. 126-8 to the contrary, any vacation leave remaining on December 31 of each year in excess of 30 days shall be reduced by the number of days awarded in this section that were actually used by the employee during the year, such that the calculation of vacation leave days that would convert to sick leave shall reflect a deduction of those days of special annual leave awarded in this section that were used by the employee during the year.

The number of days awarded by this section that carry forward to each following year shall equal the number of days awarded in this section remaining on December 31 of each year

plus the number of days awarded in this section that were deducted from vacation leave in excess of 30 days for the calculation of sick leave.

No employee may be required to take the additional leave awarded by this section.

PART VI. STATE BUDGET ACT APPLICABILITY

SECTION 6.1. If any provision of this act and G.S. 143C-5-4 are in conflict, the provisions of this act shall prevail. The appropriations and the authorizations to allocate and spend funds which are set out in this act shall remain in effect until the Current Operations Appropriations Act for the applicable fiscal year becomes law, at which time that act shall become effective and shall govern appropriations and expenditures. When the Current Operations Appropriations Act for that fiscal year becomes law, the Director of the Budget shall adjust allotments to give effect to that act from July 1 of the fiscal year.

PART VII. EFFECTIVE DATE

SECTION 7.1. Except as otherwise provided, this act becomes effective July 1, 2019.

In the General Assembly read three times and ratified this the 28th day of August, 2019.

s/ Philip E. Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2019