

Article 12H.

Sheriffs' Supplemental Pension Fund Act of 1985.

**§ 143-166.80. Short title and purpose.**

(a) This Article shall be known and may be cited as the "Sheriffs' Supplemental Pension Fund Act of 1985".

(b) The purpose of this Article is to create a pension fund to supplement local government retirement benefits which will attract the most highly qualified talent available within the State to the position of sheriff and to fully recognize that sheriffs are constitutional officials elected by the people and are also officers of the court enforcing the laws of the State of North Carolina. (1985, c. 729, s. 1.)

**§ 143-166.81. Scope.**

(a) This Article provides supplemental pension benefits for all county sheriffs who are retired from the Local Governmental Employees' Retirement System or an equivalent locally sponsored plan as herein described.

(b) The North Carolina Department of Justice shall administer the provisions of this Article.

(c) The provisions of this Article shall be subject to future legislative change or revision, and no person is deemed to have acquired any vested right to a pension payment provided by this Article. (1985, c. 729, s. 1.)

**§ 143-166.82. Assets.**

(a) On and after July 1, 1985, each Clerk of Superior Court shall remit to the Department of Justice the monthly receipts collected pursuant to G.S. 7A-304 (a)(3a) to be deposited to the credit of the Sheriffs' Supplemental Pension Fund, hereinafter referred to as the Fund, to be used in making monthly pension payments to eligible retired sheriffs under the provisions of this Article and to pay the cost of administering the provisions of this Article.

(a1) The Department of Justice shall, at the beginning of each calendar year, calculate the amount of funds, in addition to those funds from subsection (a) of this section and from G.S. 143-166.83(f), needed for that year to pay the pension benefits under this Article and shall bill each county for that amount on a pro rata basis based on the most recent population estimates by the Office of State Budget and Management for each county. The amount so billed shall be paid by each county no later than March 1st of that year to the Department of Justice and shall be deposited into the Fund. For funding this contribution to the Fund, counties may use the portion of the civil process service fee per G.S. 7A-311(a)(1) that is not required by statute to be used to ensure the timely service of process within the county, may use other funds, or both.

(b) The State Treasurer shall be the custodian of the Sheriffs' Supplemental Pension Fund and shall invest its assets in accordance with the provisions of G.S. 147-69.2 and G.S. 147-69.3. (1985, c. 729, s. 1; 2017-176, s. 6(a).)

**§ 143-166.83. Disbursements.**

(a) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 900, s. 54, effective January 1, 1993.

(b) Immediately following January 1, 1993, and the first of January of each succeeding calendar year thereafter, the Department of Justice shall divide an amount equal to ninety percent (90%) of the assets of the Fund at the end of the preceding calendar year and shall add to that

amount any assets remaining pursuant to subsection (f) of this section and the amounts pursuant to G.S. 143-166.82(a1) and disburse the same as monthly payments in accordance with the provisions of this Article.

(c) Ten percent (10%) of the Fund's assets as of January 1, 1993, and at the beginning of each calendar year thereafter, may be used by the Department of Justice in administering the provisions of this Article. This ten percent (10%) is to be derived from the Fund's assets prior to the addition of assets remaining pursuant to subsection (f) of this section.

(d) All the Fund's disbursements shall be conducted in the same manner as disbursements are conducted for other special funds of the State.

(e) If, for any reason, the Fund shall be insufficient to pay pension benefits owed under this Article or other charges, then all benefits or payments shall be reduced pro rata for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension payment shall have been reduced.

(f) Any assets remaining after reserving an amount equal to the disbursements required under subsections (b) and (c) of this section shall be accrued and included in disbursements for pensioners in succeeding years. (1985, c. 729, s. 1; 1985 (Reg. Sess., 1986), c. 1030, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 900, s. 54(a); 2017-176, s. 6(b).)

#### **§ 143-166.84. Eligibility.**

(a) Each county sheriff who has retired from the Local Governmental Employees' Retirement System, and who has attained the age of 55 years or attained 30 years of creditable service regardless of age, and who has completed at least 10 years of eligible service as sheriff, is entitled to receive a monthly pension under this Article.

(a1) Each county sheriff who withdrew any service standing to his credit in the Local Governmental Employees' Retirement System prior to July 1, 1986, and who has attained the age of 55 or attained 30 creditable years of service regardless of age, and who has completed at least 10 years of eligible service as sheriff, is entitled to receive a monthly pension under this Article provided the sheriff is not eligible to receive any retirement benefit from any State or locally sponsored plan.

(a2) Each county sheriff who has been approved for disability benefits from the Local Governmental Employees' Retirement System is eligible to receive benefits from the Fund based on years of creditable service as sheriff, regardless of age, provided the retiree has at least 10 years of eligible service as sheriff.

(b) Each eligible retired sheriff as defined in subsections (a), (a1), and (a2) of this section relating to age and service shall be entitled to receive a monthly pension under this Article beginning with the month immediately following the effective date of retirement.

(c) For the purposes of this Article, the term "eligible service as sheriff" means membership service rendered since the person became sheriff and, if the person has sick leave standing to his or her credit accrued as a member of the Local Governmental Employees' Retirement System and, after notification to the Retirement Systems Division by the retiring sheriff and the Department of Justice, elects to have all of that sick leave applied to service under this Article instead of service in the Local Governmental Employees' Retirement System, one month of credit for each 20 days or portion thereof, but not less than one hour, and subject to all the requirements and restrictions of G.S. 128-26(e). (1985, c. 729, s. 1; 1985 (Reg. Sess., 1986), c. 1030, ss. 3, 5(a); 1987, c. 177, s. 3; 1989 (Reg. Sess., 1990) c. 1079, s. 1; 1991 (Reg. Sess., 1992), c. 900, s. 54(b); 2017-128, s. 5(a); 2020-29, s. 6(a), (b).)

**§ 143-166.85. Benefits.**

(a) An eligible retired sheriff shall be entitled to and receive an annual pension benefit, payable in equal monthly installments, equal to an amount that, when added to a retired allowance at retirement from the Local Governmental Employees' Retirement System or to the amount he would have been eligible to receive if service had not been forfeited by the withdrawal of accumulated contributions, is equal to seventy-five percent (75%) of a sheriff's equivalent annual salary immediately preceding retirement computed on the latest monthly base rate, to a maximum amount that does not exceed (i) one thousand five hundred dollars (\$1,500) or (ii) the sheriff's equivalent annual salary immediately preceding retirement computed on the latest monthly base rate when the benefit described in this subsection is added to the amount of the benefit the sheriff receives under G.S. 143-166.42 and the amount of the sheriff's retired allowance at retirement from the Local Governmental Employees' Retirement System or the amount the sheriff would have been eligible to receive if service had not been forfeited by the withdrawal of accumulated contributions.

(b) All monthly pensions payable under this Article shall be paid on the last business day of each month.

(c) At the death of the pensioner, benefits for the current calendar year will continue and be paid in monthly installments to the decedent's spouse or estate, in accordance with the provisions of Chapter 28A of the General Statutes. Benefits will cease upon the last payment being made in December of the current year.

(d) Monthly pensions payable under this Article will cease upon the full-time reemployment of a pensioner with an employer participating in the Local Governmental Employees' Retirement System for as long as the pensioner is so reemployed.

(e) Repealed by Session Laws 1989, c. 792, s. 2.9.

(f) Nothing contained in this Article shall preclude or in any way affect the benefits that a pensioner may be entitled to from any state, federal or private pension, retirement or other deferred compensation plan. (1985, c. 729, s. 1; 1985 (Reg. Sess., 1986), c. 1030, ss. 4, 5(b); 1987, c. 177, s. 4; 1989, c. 792, s. 2.9; 1989 (Reg. Sess., 1990), c. 1079, s. 2; 1991 (Reg. Sess., 1992), c. 900, s. 54(c); 2005-276, s. 29.30(a); 2017-176, s. 6(c).)