

16.165 State Police officer disabled on hazardous duty may elect to be retained on payroll -- Compensation -- Conditions -- Exceptions -- Appeal -- Disability retirement allowance time may be included in calculation for normal retirement.

Any Department of Kentucky State Police officer, as defined in KRS 16.010, who becomes disabled after July 1, 1977, as a direct result of an injury or disease arising out of the performance of a hazardous duty in the course of employment with the department may elect to be retained on the regular payroll of the department subject to the following:

- (1)
 - (a) For officers who become disabled after July 1, 1977, but prior to July 15, 2016, compensation paid to the officer by the department shall be maintained at the officer's rate of pay that he or she was receiving on July 15, 2016.
 - (b) For officers becoming disabled on or after July 15, 2016, compensation paid to the officer by the department shall be maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the department on the date he or she elects to be retained on the regular payroll of the department under this section.
 - (c) On and after July 15, 2016:
 1. Any officer receiving compensation under this section shall not receive any annual increments or increases based on years of service or rank established by the schedules set forth in KRS 16.052 during the period in which the officer receives compensation under this section; and
 2. If the officer returns to full active duty, and the base salary he or she qualifies for at that time exceeds the base salary he or she was receiving under this section, the officer shall receive the base salary he or she qualifies for under the schedules established by KRS 16.052 beginning on the first day of the month following the month that he or she returns to full active duty.
 - (d) Any compensation paid to an officer by the department under paragraph (a) or (b) of this subsection shall be reduced by the amount of payments received by the officer from workers' compensation insurance, Social Security benefits, and other federal or state-financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his or her creditable compensation for purposes of KRS 16.510 to 16.652;
- (2) The officer shall be assigned by the commissioner of the Department of Kentucky State Police to a position in the department for which the officer is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this section. If the commissioner determines that the

officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this section without the performance of limited duties. Any officer adversely affected or aggrieved by a final determination of the commissioner pursuant to this section may appeal within thirty (30) days to the local Circuit Court;

- (3) (a) For an officer whose participation date in the State Police Retirement System is prior to January 1, 2014, payments made pursuant to this section shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to KRS 16.582.
 - (b) For an officer whose participation date in the State Police Retirement System is on or after January 1, 2014, payments made pursuant to this section shall continue until the officer is eligible to retire under KRS 16.583(6)(a) or until the officer elects to retire under KRS 16.583(6)(b) or to receive disability retirement allowances pursuant to KRS 16.582.
 - (c) If the officer receives preretirement payments under this section or KRS 16.167 and subsequently elects disability retirement, the effective date of his disability retirement shall be the first month following the month in which the officer last receives preretirement payments under this section or KRS 16.167, KRS 16.505(16) to the contrary notwithstanding; and
- (4) Any Department of Kentucky State Police officer, disabled prior to July 1, 1977, as a result of severe physical injuries arising out of the performance of duty, who is unable to maintain gainful employment as a result of such injuries, but who was ineligible for retention on the regular payroll because of the date of his injury, shall, if his or her time in active service plus his or her time on disability retirement allowance equal the time necessary for normal retirement pursuant to KRS 16.505(15), have his or her retirement allowance increased to the amount he or she would receive, had he or she been retained on the regular payroll of the department pursuant to this section and had he or she subsequently elected normal retirement pursuant to KRS 16.576 when first eligible, but any survivor option which he or she chose at the time of disability retirement shall not be changed.

Effective: July 15, 2016

History: Amended 2016 Ky. Acts ch. 109, sec. 8, effective July 15, 2016; and ch. 110, sec. 9, effective July 15, 2016. -- Amended 2013 Ky. Acts ch. 120, sec. 33, effective July 1, 2013. -- Amended 2007 Ky. Acts ch. 85, sec. 65, effective June 26, 2007. -- Amended 1994 Ky. Acts ch. 485, sec. 30, effective July 15, 1994. -- Amended 1986 Ky. Acts ch. 257, sec. 1, effective July 15, 1986. -- Created 1979 (1st Extra. Sess.) Ky. Acts ch. 16, sec. 1, effective May 12, 1979.

Legislative Research Commission Note (7/15/2016). This statute was amended in 2016 Ky. Acts ch. 109, sec. 8 and ch. 110, sec. 9. 2016 Ky. Acts ch. 110, sec. 15 provided that ch. 110 takes precedence over ch. 109. Chapter 110 was also the later-passed bill. Therefore, 2016 Ky. Acts ch. 110, sec. 9 has been codified and 2016 Ky. Acts ch. 109, sec. 8 has not.