

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 388
SENATE BILL 84

AN ACT TO ESTABLISH A COMPREHENSIVE COMPENSATION SYSTEM FOR STATE EMPLOYEES SUBJECT TO CHAPTER 126 OF THE GENERAL STATUTES AND TO DIRECT THE DISTRIBUTION OF APPROPRIATIONS FOR IMPLEMENTATION OF THIS COMPREHENSIVE COMPENSATION SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7 reads as rewritten:

"§ 126-7. ~~Compensation of State employees.~~ Comprehensive Compensation System.

(a) It is the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, salary increases to State employees ~~may be based, in part, on each individual employee's job performance and, in part, on general increases given to all State employees.~~ shall be implemented through the Comprehensive Compensation System based upon the individual performance of each State employee. The Comprehensive Compensation System shall combine salary increases and awards into an interrelated system of compensation that furthers the recruitment, retention, career service, and outstanding performance of State employees.

(a1) ~~General salary increases for State employees shall precede any consideration of a performance pay allocation. Performance pay shall be allocated only when the total allocation for increases equals or exceeds two percent (2%).~~

(a2) For the purpose of this section, unless the context indicates otherwise:

- (1) 'Career growth recognition award' means an annual salary increase awarded to a State employee whose final annual performance appraisal indicates job performance that meets or exceeds management's expectations and performance requirements;
- (2) 'Cost-of-living adjustment' means a general salary increase given to State employees in response to inflation and labor market factors;
- (3) 'Performance bonus' means a salary increase that is awarded in a lump sum to a State employee whose final annual performance appraisal indicates job performance that exceeds management's expectations and performance requirements.

(b) To guide the Governor and the General Assembly in making appropriations to ~~further the compensation policy of the State,~~ fund the Comprehensive Compensation

System, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall present the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st of even years.

(b1) The Comprehensive Compensation System shall consist of the following components: (i) the career growth recognition award, (ii) the cost-of-living adjustment, and (iii) the performance bonus. The career growth recognition award shall be the primary method by which an employee progresses through his or her salary range and shall be awarded annually to employees who qualify for the award. An employee may receive, within a 12-month period, the career growth recognition award, the cost-of-living adjustment, and the performance bonus, if the employee's job performance equals or exceeds the level of performance set forth in subdivisions (4), (4a), and (4b) of subsection (c) of this section. No employee shall be eligible to receive during a 12-month period a performance bonus greater than the maximum amount or less than the minimum amount established by the Commission. Nothing in this section shall affect the system of longevity payments established by the Commission.

(c) Performance increases, if awarded, Career growth recognition awards, cost-of-living adjustments, and performance bonuses shall be based on annual performance appraisals of all employees conducted by each department, agency, and institution. The State Personnel Commission, under the authority of G.S. 126-4(8), shall adopt policy and regulations for performance appraisal. The policy and regulations shall include the following:

- (1) The performance appraisal system of each department, agency, or institution shall be designed and administered to ensure that performance increases are distributed fairly and reward only performance that exceeds performance requirements. career growth recognition awards, cost-of-living adjustments, and performance bonuses are distributed fairly.
- (2) To be eligible to distribute its share of the performance increase allocation, career growth recognition awards, cost-of-living adjustments, and performance bonuses, a department, agency, or institution shall have an operative performance appraisal system which has been approved by the State Personnel Director Commission. The performance appraisal system adopted shall use a rating scale of five levels, with level four or better qualifying for performance bonuses, level three or better qualifying for career growth recognition awards, and level two or better qualifying for cost-of-living adjustments. The performance appraisal system adopted shall adhere to modern personnel management techniques and practices in common use in the public and private sectors. The performance appraisal system adopted shall use a rating scale of:
 - a. Five levels, with the top two levels qualifying for performancee increases or

b. ~~Other than five levels, with the levels qualifying for performance increases to be designated by the State Personnel Commission, for those job classifications in those employing units where a department, agency, or institution demonstrates to the State Personnel Commission that some number of levels other than five would be appropriate, and the State Personnel Commission, after conducting a public hearing, determines that a rating scale of other than five levels is more appropriate than five levels for a particular job classification within a particular employing unit.~~

~~There shall be a presumption that a five-level system is the most appropriate system, and the department, agency, or institution must demonstrate with clear and convincing evidence that a different system is more appropriate. The performance appraisal system adopted shall adhere to modern personnel management techniques and practices in common use in the public and private sectors. Departments, agencies, and institutions with existing performance appraisal systems which use a rating scale which is not consistent with the system described above shall have until July 1, 1991, to bring their systems into compliance with this subsection.~~

- (3) ~~The State Personnel Director shall help departments, agencies, and institutions to establish and administer their performance appraisal systems and shall provide initial and ongoing training in performance appraisal and performance system administration.~~
- (4) ~~An employee whose performance exceeds performance requirements shall receive a performance increase unless the employee's supervisor justifies in writing to the employee the decision not to award the performance increase. An employee whose performance does not exceed performance requirements shall not receive a performance increase. Standards for performance and standards for performance pay increases may be established for each department, agency, or institution. These standards may not set limits so as to preclude an employee whose performance exceeds performance requirements from consideration for an increase. An employee whose performance is rated at or above level four of the rating scale shall be eligible to receive, subject to the rules and regulations of the Commission, a performance bonus unless the employee's supervisor justifies in writing to the employee the decision not to award the performance bonus. Other than the Commission, no department, agency, or institution shall set limits so as to preclude an employee whose performance exceeds management's expectations and performance requirements from consideration for a performance bonus.~~
- (4a) An employee whose performance is rated at or above level three of the rating scale shall receive a career growth recognition award unless the

employee's supervisor justifies in writing to the employee the decision not to give the career growth recognition award. The career growth recognition award shall represent a two percent (2%) increase within the employee's assigned pay grade. In no event shall any award increase an employee's compensation above the maximum of the range. Other than the Commission, no agency, department, or institution shall set limits so as to preclude an employee whose performance meets or exceeds management's expectations and performance requirements from receiving a career growth recognition award.

(4b) An employee whose performance is rated at or above level two of the rating scale and who is not involved in the final written stage of the disciplinary procedure shall receive a cost-of-living increase. Other than the Commission, no agency, department, or institution shall set limits or initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment.

(5) ~~The State Personnel Director shall set the performance increase ranges allowable for levels of performance that exceed performance requirements. An employee whose performance exceeds expectations shall receive a percentage increase equal to the midrange value for his rating, unless the supervisor can justify an increase above or below the midrange value within the allowable range. The supervisor shall give an employee written justification of his decision to award an increase above or below the midrange value when the employee requests written justification. A supervisor's performance appraisal plan, evaluation standards for each employee, and individual employee ratings and recommended performance increase amounts, with justification, shall be reviewed and approved by that supervisor's next higher level supervisor.~~

(5a) ~~If an employee is otherwise eligible for a performance increase and is at the top of (but does not exceed) a pay scale, the employee shall receive a performance increase in the form of a performance bonus. This performance bonus shall be a one-time, lump-sum award paid separately from any other payment to the employee for the year. Such award shall not serve to increase the base pay of such employee. An award of this bonus pursuant to this subdivision does not affect:~~

a. ~~The value of the top of any pay scale; and~~

b. ~~The employee's current salary, which will remain at the top of the pay scale.~~

~~Except as provided in this subdivision, all other provisions of this subsection shall apply to an employee at the top of a pay scale.~~

(6) The State Personnel Director may suspend rescind any career growth recognition award or performance increase bonus that does not appear

to meet the intent of the provisions of the performance ~~pay appraisal~~ system and require the originating department, agency, or institution to reconsider or justify the increase.

(7) An employee who disputes the fairness of his or her performance ~~evaluation appraisal~~ or the ~~sufficiency amount of a performance bonus~~ increase awarded or who believes that he or she was unfairly denied a career growth recognition award or performance increase bonus shall first discuss the problem with his or her supervisor. Appeals of the supervisor's decision shall be made only to the grievance committee or internal performance review board of the department, agency, or institution which shall make a recommendation to the head of the department, agency, or institution for final decision. The State Personnel Director shall help a department, agency, or institution establish an internal performance review board or, if it includes employee members, to use its existing grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-34, performance pay disputes, including disputes about individual performance appraisals, shall not be considered contested case issues.

(7a) Each department, agency, and institution shall establish a performance management and pay advisory committee as part of the performance appraisal system. The purpose of the committee is to ensure that ~~performance pay increases~~ salary increases and awards are made in an equitable manner. The committee shall be responsible for reviewing:

- a. Agency ~~performance pay salary increase and award policies and performance pay plan~~ to determine whether this section and any guidelines promulgated by the ~~Office of State Personnel~~ State Personnel Commission have been adhered to;
- b. Agency training and education programs to determine whether all employees receive appropriate information; and
- c. Performance appraisal ratings within the department, agency, or institution to determine whether an equitable distribution has been made.

The committee must have a minimum of five members. The head of each department, agency, and institution shall appoint the members of the committee with equal representation of nonsupervisory, supervisory, and management employees. The committee shall elect its own chair.

The performance management and pay advisory committee shall meet at least two times each year. The committee shall submit a written report following each meeting to the head of the department, agency, or institution. The report shall include recommendations for changes and corrections in the administration of the performance management system. The

recommendations of the committee shall be advisory only. The head of the department, agency, or institution shall respond to the committee within three months. Copies of the report shall be included in the report to the Office of State Personnel that is required of that agency, department, or institution. Summaries of the report shall be included in the annual reports that are mandated by this subsection.

~~Nothing in subdivision (7a) and each subpart hereof shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this subdivision.~~

- (8) The State Personnel Director shall monitor the performance appraisal system and ~~performance increase distribution of each employing unit~~ the distribution of salary increases and awards within each department, agency, and institution. Each department, agency, and institution shall submit to the Director annual reports which shall include data on the demographics of performance ratings, the frequency of evaluations, ~~the performance pay increases awarded~~ the distribution of salary increases and awards, and the implementation schedule for ~~performance pay increases~~ salary increases and awards. The Director shall analyze the data to ensure that ~~performance increases~~ salary increases and awards are distributed fairly within each department, agency, and institution and across all departments, agencies, and institutions of State government and shall report back to each department, agency, and institution on its appraisal and distribution performance.
- (9) The State Personnel Director shall report annually on the ~~performance pay program~~ Comprehensive Compensation System to the Commission. The report shall evaluate the performance of each department, agency, and institution in the administration of its appraisal system and the distribution of ~~performance increases~~ salary increases and awards within each department, agency, and institution and across State government. The report shall include recommendations for improving the performance appraisal system and alleviating inequities. ~~Copies of the report shall be sent to the State Auditor.~~ Copies of the report, as adopted by the State Personnel Commission, shall be sent to the Governor, Lieutenant Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, the standing personnel committees of the House of Representatives and the Senate, and the State Auditor. The State Personnel Director shall recommend to the General Assembly for its approval sanctions to be levied against departments, agencies, and institutions that have deficient performance appraisal systems or that do not link salary increases and awards to employee job performance. These sanctions may include withholding salary increases and awards

from the managers and supervisors of individual employing units of departments, agencies, and institutions in which discrepancies exist.

- (10) ~~The Commission shall report annually to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Standing Personnel Committees of the House and the Senate. The Commission report shall include an evaluation of the administration of the appraisal system and distribution of performance increases by each department, agency, and institution. The State Personnel Director shall recommend to the General Assembly for its approval sanctions to be levied against departments, agencies, and institutions that have deficient appraisal systems or that do not link performance increases to performance. These sanctions may include withholding performance increases from the managers and supervisors of individual employing units of departments, agencies, and institutions in which discrepancies exist.~~

(d) ~~The provisions of subsections (a), (b), and (c) shall not affect the system of longevity payments established by the State Personnel Commission.~~

(e) The Governor and the General Assembly, subject to availability of funds, shall advance the State's Comprehensive Compensation System by recommending and making annual appropriations to the Comprehensive Compensation System in the following manner:

- (1) The career growth recognition award component shall be funded each year at the level required for full implementation as provided by this section.
- (2) To the extent that expansion funds are available, the Comprehensive Compensation System shall receive an additional appropriation to fund cost-of-living adjustments. Any remaining available funds shall next be allocated to provide for performance bonuses. The level of the performance bonus allocation shall not exceed two percent (2%) of the total employee payroll."

Sec. 2. G.S. 126-4 reads as rewritten:

"§ 126-4. Powers and duties of State Personnel Commission.

Subject to the approval of the Governor, the State Personnel Commission shall establish policies and rules governing each of the following:

- (1) Position classification plans which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.

- (4) Recruitment programs designed to promote public employment, communicate current hiring activities within State government, and attract a sufficient flow of internal and external applicants; and determine the relative fitness of applicants for the respective positions.
- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than 11 paid holidays per year except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.
- (6) The appointment, promotion, transfer, demotion and suspension of employees.
- (7) Cooperation with the Department of Public Education, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program.
- (7a) The separation of employees.
- (8) ~~The evaluation of employee performance, the granting of performance salary increases, and a~~ A program of meritorious service awards.
- (9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.
- (10) Programs of safety, health, employee assistance, productivity incentives, equal opportunity and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.
- (11) In cases where the Commission finds discrimination or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.
- (12) Repealed by Session Laws 1987, c. 320, s. 2.
- (13) Repealed by Session Laws 1987, c. 320, s. 3.
- (14) The implementation of G.S. 126-5(e).

- (15) Recognition of State employees, public personnel management, and management excellence.
- (16) The implementation of G.S. 126-7.

Such policies and rules shall not limit the power of any elected or appointed department head, in his discretion and upon his determination that it is in the best interest of the Department, to transfer, demote, or separate a State

- (1) Employee in a primary level position who has not been continuously employed by the State of North Carolina for the immediate 12 preceding months;
- (2) Employee in a secondary level or professional position who has not been continuously employed by the State of North Carolina for the immediate 24 preceding months; [or]
- (3) Employee in a management level or consultant position who has not been continuously employed by the State of North Carolina for the immediate 36 preceding months.
- (4) Repealed by Session Laws 1991, c. 354, s. 2, effective July 1, 1993."

Sec. 3. (a) There is created in the Office of the Governor the Task Force on the Implementation of a Comprehensive Compensation System for State Employees. The Task Force shall be made up of 11 members appointed as follows:

- (1) Five members appointed by the Governor, including representatives of the Office of State Personnel and State agencies with employees who are subject to the State Personnel Act;
- (2) Three members appointed by the President Pro Tempore of the Senate; and
- (3) Three members appointed by the Speaker of the House of Representatives.

(b) The Task Force shall develop a plan for moving State employees into the Comprehensive Compensation System enacted in this act. The Task Force shall report on its plan to the Governor and the General Assembly prior to March 1, 1994.

(c) It is the intent of the General Assembly to consider the report of this Task Force and to make any changes in the Comprehensive Compensation System the General Assembly deems appropriate prior to July 1, 1994.

Sec. 4. (a) The Office of State Personnel shall study the State Personnel System, including employee classifications, salary schedules for State employees, pay equity, pay inequities considering appropriate factors, the impact the Comprehensive Compensation System will have on the growing disparity between the top and the bottom of the pay scale, and placement of employees under the Comprehensive Compensation System in accordance with years of experience, and shall develop a plan for realigning the classification system. The Office of State Personnel shall make an interim report on the plan to the General Assembly prior to April 1, 1994, and a final report to the General Assembly prior to February 1, 1995.

(b) It is the intent of the General Assembly to consider the April 1, 1994 report of the Office of State Personnel and to incorporate the report as appropriate in the Comprehensive Compensation System prior to implementation of the system. It is

further the intent of the General Assembly to consider the February 1, 1995 report from the Office of State Personnel and to modify the Comprehensive Compensation System as appropriate after consideration of the report.

Sec. 5. Nothing in this act shall obligate this or future General Assemblies to fund the provisions of this act. Nothing in this act shall be construed to entitle State employees to increases in compensation for which the General Assembly has not appropriated funds. It is the intent of the General Assembly to use the Comprehensive Compensation System as a model for the allocation of funds appropriated for salary increments for State employees: Provided, however, current revenue forecasts require that the General Assembly choose among components of the system, including career growth recognition awards, cost-of-living adjustments, performance bonuses, modifications in salary schedules, and placement of employees on the salary schedule, when it allocates funds for salary increments for State employees.

Sec. 6. This act is effective upon ratification. Sections 1 and 2 of this act apply to any compensation earned on or after July 1, 1994, but procedures and rules to implement those subsections may be adopted at any time after ratification of this act.

In the General Assembly read three times and ratified this the 18th day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives