§ 126A-1-24. Process for designating exempt managerial and policy positions.

(a) Exempt Managerial Position. – An exempt managerial position is a position delegated with significant managerial or programmatic responsibility that is essential to the successful operation of an agency, so that the application of G.S. 126A-8-2 to an employee in the position would cause undue disruption to the operations of the agency.

(b) Exempt Policymaking Position. – An exempt policymaking position is a position delegated with the authority to impose the final decision as to a settled course of action to be followed within an agency, so that loyalty to the Governor or member of the Council of State in their respective offices is reasonably necessary to implement the policies of their offices. The term does not include personnel professionals.

(c) Exempt Policymaking and Exempt Managerial Positions in Cabinet Departments. – Subject to this Chapter, the Governor may designate a total of 425 exempt policymaking and exempt managerial positions throughout the following departments and offices:

(1) Department of Administration.
(2) Department of Commerce.
(3) Department of Public Safety.
(4) Department of Natural and Cultural Resources.
(5) Department of Health and Human Services.
(6) Department of Environmental Quality.
(7) Department of Revenue.
(8) Department of Transportation.
(9) Department of Information Technology.
(10) Department of Military and Veterans Affairs.
(11) Department of Adult Correction.
(12) Office of State Human Resources.
(13) Office of State Budget and Management.

(d) Exempt Policymaking and Exempt Managerial Positions in Council of State Departments and Offices. – The following officials may designate up to 25 exempt policymaking positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater, and 25 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater, except as described below:

(1) The Secretary of State.
(2) The Auditor.
(3) The Treasurer.
(4) The Attorney General.
(5) The Commissioner of Agriculture.
(6) The Commissioner of Insurance.
(7) **(Effective until contingency met – see note)** The Commissioner of Labor. – Notwithstanding the designation limits of this subsection, the Commissioner shall designate three additional full-time equivalent attorney positions as exempt policymaking positions.
(7) **(Effective once contingency met – see note)** The Commissioner of Labor. – Notwithstanding the designation limits of this subsection, the Commissioner shall designate (i) three additional full-time equivalent attorney positions and (ii) one additional official primarily responsible for ensuring compliance with Article 2 of Chapter 64 of the General Statutes as exempt policymaking positions.
(8) The Superintendent of Public Instruction. – Notwithstanding the designation limits of this subsection, the Superintendent may designate up to 70 exempt policymaking positions or two percent (2%) of the total number of full-time

positions in the department, whichever is greater, and up to 70 exempt managerial positions or two percent (2%) of the total number of full-time positions in the department, whichever is greater.

(e) Exempt Policymaking and Exempt Managerial Positions in the Office of the State Controller and the State Board of Elections. –

(1) The State Controller. – The total number of exempt positions, policymaking and managerial, is limited to 10.

(2) The Executive Director of the State Board of Elections. – The total number of exempt positions is limited to the following seven positions: Agency Human Relations Director II, Agency General Counsel II, Assistant General Counsel II, Public Information Manager, Legislative Affairs Manager, Internal Auditor, and Administrative Officer III.

(f) Designation of Additional Positions. – The Governor or member of the Council of State may request that additional positions be designated as exempt. The request shall be made by sending a list of exempt policymaking and exempt managerial positions that exceed the limit imposed by this subsection to the Speaker of the North Carolina House of Representatives and the President Pro Tempore of the North Carolina Senate. A copy of the list also shall be sent to the Director. The General Assembly may authorize all, or part of, the additional positions to be designated as exempt policymaking and exempt managerial positions. [The following provisions apply:]

(1) If the General Assembly is in session when the list is submitted and does not act within 30 days after the list is submitted, the list is deemed approved by the General Assembly, and the positions shall be designated as exempt positions.

(2) If the General Assembly is not in session, the list shall be submitted to the Joint Legislative Commission on Governmental Operations, and if the Commission does not meet within 90 days of submission, the list is deemed approved pursuant to G.S. 120-76.1(b), and the positions shall be designated as exempt.

(g) Letter. – Exempt policymaking and exempt managerial positions shall be designated in a letter to the Director, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate by July 1 of the year in which the oath of office is administered to each Governor unless subsection (h) of this section applies.

(h) Vacancies. – In the event of a vacancy in the Office of the Governor, the office of a member of the Council of State, the Office of the State Controller, or the Executive Director of the State Board of Elections, the person who succeeds to or is appointed or elected to fill the unexpired term shall make designations in a letter to the Director, the Speaker of the House of Representatives, and the President Pro Tempore of the Senate within 180 days after the oath of office is administered to that person.

(i) Creation, Transfer, or Reorganization. – The Governor or member of the Council of State may designate as exempt a position that is created or transferred to a different department, or is located in a department in which reorganization has occurred, after July 1 of the year in which the oath of office is administered to the Governor. The designation shall be made in a letter to the Director, the Speaker of the North Carolina House of Representatives, and the President Pro Tempore of the North Carolina Senate within 180 days after the position is created, transferred, or in which reorganization has occurred.

(j) Reversal. – Subsequent to the designation of a position as an exempt policymaking or exempt managerial position, the status of the position may be reversed and made subject to this Chapter by the Governor or by a member of the Council of State in a letter to the Director, the Speaker of the North Carolina House of Representatives, and the President Pro Tempore of the North Carolina Senate.

(k) No Designation for Certain Positions. – Except for deputy commissioners appointed pursuant to G.S. 97-79 and as otherwise specifically provided by this section, no employee, by whatever title, whose primary duties include the power to conduct hearings, take evidence, and enter a decision based on findings of fact and conclusions of law based on statutes and legal precedents, shall be designated as exempt. (2026-40, ss. 1, 5.7(e).)