

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1402

Short Title: Performance Pay Oversight.

(Public)

Sponsors: Senators Odom, Johnson of Wake, Sands, Bryan, Speed, Lee; and Block.

Referred to: State Personnel.

May 29, 1990

A BILL TO BE ENTITLED

**AN ACT TO ESTABLISH A PERFORMANCE MANAGEMENT AND PAY
OVERSIGHT ADVISORY COMMITTEE WITHIN EACH DEPARTMENT,
AGENCY, AND INSTITUTION TO ENSURE THAT PERFORMANCE PAY
INCREASES ARE MADE IN A FAIR AND EQUITABLE MANNER.**

The General Assembly of North Carolina enacts:

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

"(c) Performance increases shall be based on 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.

(2) To be eligible to distribute its share of the performance increase allocation, a department, agency, or institution shall have an operative performance appraisal system which has been approved by the State Personnel Director. The performance appraisal system adopted shall use a rating scale of at least five levels, with the top three levels qualifying for performance increases, and shall adhere to modern personnel management techniques and practices in common use in the public and private sectors. Departments, agencies, and institutions

1 with existing performance appraisal systems which use a rating scale
2 which is not consistent with the five-level system described above
3 shall have until July 1, 1991, to bring their systems into compliance
4 with this subsection.

5 (3) The State Personnel Director shall help departments, agencies, and
6 institutions to establish and administer their performance appraisal
7 systems and shall provide initial and ongoing training in performance
8 appraisal and performance system administration.

9 (4) An employee whose performance exceeds performance requirements
10 shall receive a performance increase unless the employee's supervisor
11 justifies in writing the decision not to award the performance increase.
12 An employee whose performance does not exceed performance
13 requirements shall not receive a performance increase.

14 (5) The State Personnel Director shall set the performance increase ranges
15 allowable for levels of performance that exceed performance
16 requirements. Absent the supervisor's written justification, an
17 employee whose performance exceeds expectations shall receive a
18 percentage increase equal to the midrange value for his rating level.
19 With the supervisor's written justification, an individual employee's
20 increase may vary above or below the midrange value within the
21 allowable range. A supervisor's performance appraisal plan,
22 evaluation standards for each employee, and individual employee
23 ratings and recommended performance increase amounts, with
24 justification, shall be reviewed and approved by that supervisor's next
25 higher level supervisor.

26 (6) The State Personnel Director may suspend any performance increase
27 that does not appear to meet the intent of the provisions of the
28 performance pay system and require the originating department,
29 agency, or institution to reconsider or justify the increase.

30 (7) An employee who disputes the fairness of his performance evaluation
31 or the sufficiency of the increase awarded or who believes that he was
32 unfairly denied a performance increase shall first discuss the problem
33 with his supervisor. Appeals of the supervisor's decision shall be made
34 only to the grievance committee or internal performance review board
35 of the department, agency, or institution which shall make a
36 recommendation to the head of the department, agency, or institution
37 for final decision. The State Personnel Director shall help a
38 department, agency, or institution establish an internal performance
39 review board or, if it includes employee members, to use its existing
40 grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-
41 34, performance pay disputes, including disputes about individual
42 performance appraisals, shall not be considered contested case issues.
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- 1 (7a) Each department, agency, and institution shall establish a performance
2 management and pay oversight committee as part of the performance
3 appraisal system. The purpose of the committee is to ensure that
4 performance pay increases are made in an equitable manner. The
5 committee shall be responsible for reviewing:
6 a. Agency performance pay policies and performance pay plan to
7 determine whether this section and any guidelines promulgated
8 by the Office of State Personnel have been adhered to;
9 b. Agency training and education programs to determine whether
10 all employees receive appropriate information; and
11 c. Performance ratings within the department, agency, or
12 institution to determine whether an equitable distribution has
13 been made.

14 The committee must have a minimum of five members, with
15 representation from each division of the department, agency, or
16 institution. Members shall rotate on an annual basis. The head of each
17 department, agency, and institution shall appoint the members of the
18 committee. A simple majority of the members is to be comprised of
19 nonsupervisory employees; the remaining members are to include
20 supervisory employees. The committee shall elect its own chair.

21 The performance management and pay oversight committee shall
22 meet at least two times each year. The committee shall submit a
23 written report following each meeting to the head of the department,
24 agency, or institution. The report shall include recommendations for
25 changes and corrections in the administration of the performance
26 management system. The recommendations of the committee shall be
27 advisory only. The head of the department, agency, or institution shall
28 respond to the committee within three months. Copies of the report
29 shall be included in the report to the Office of State Personnel that is
30 required of that agency, department, or institution. Summaries of the
31 report shall be included in the annual reports that are mandated by this
32 subsection.

- 33 (8) The State Personnel Director shall monitor the performance appraisal
34 system and performance increase distribution of each employing unit
35 within each department, agency, and institution. Each department,
36 agency, and institution shall submit to the Director annual reports
37 which shall include data on the demographics of performance ratings,
38 the frequency of evaluations, the performance pay increases awarded,
39 and the implementation schedule for performance pay increases. The
40 Director shall analyze the data to ensure that performance increases are
41 distributed fairly within each department, agency, and institution and
42 across all departments, agencies, and institutions of State government
43 and shall report back to each department, agency, and institution on its
44 appraisal and distribution performance.

1 (9) The State Personnel Director shall report annually on the performance
2 pay program to the Commission. The report shall evaluate the
3 performance of each department, agency, and institution in the
4 administration of its appraisal system and the distribution of
5 performance increases within each department, agency, and institution
6 and across State government. The report shall include
7 recommendations for improving the performance appraisal system and
8 alleviating inequities. Copies of the report shall be sent to the State
9 Auditor.

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

23 Sec. 2. This act shall become effective July 1, 1990.