

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 10
House Committee Substitute Favorable 4/22/91

Short Title: State Personnel Tech. Amendments.

(Public)

Sponsors:

Referred to:

February 5, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CERTAIN TECHNICAL AND CLARIFYING AMENDMENTS
3 TO CHAPTER 126 OF THE GENERAL STATUTES REGARDING THE STATE
4 PERSONNEL SYSTEM.

5 The General Assembly of North Carolina enacts:

6 Section 1. G.S. 126-4 reads as rewritten:

7 "**§ 126-4. Powers and duties of State Personnel Commission.**

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

- 10 (1) ~~A position~~ Position classification plan ~~plans~~ which shall provide for the
11 classification and reclassification of all positions subject to this
12 Chapter according to the duties and responsibilities of the positions.
- 13 (2) ~~A compensation plan~~ Compensation plans which shall provide for
14 minimum, maximum, and intermediate rates of pay for all employees
15 subject to the provisions of this Chapter.
- 16 (3) For each class of positions, reasonable ~~qualifications, as to age, character,~~
17 ~~physical condition, and other attributes~~ qualifications as to education,
18 experience, specialized training, licenses, certifications, and other job-
19 related requirements pertinent to the work to be performed.
- 20 (4) ~~A recruitment program to attract applicants to public employment~~
21 Recruitment programs designed to promote public employment,
22 communicate current hiring activities within State government, and

- 1 attract a sufficient flow of internal and external applicants; and
2 determine the relative fitness of applicants for the respective positions.
- 3 (5) Hours and days of work, holidays, vacation, sick leave, and other
4 matters pertaining to the conditions of employment. The legal public
5 holidays established by the Commission as paid holidays for State
6 employees shall include Martin Luther King, Jr.'s, Birthday for all years
7 after 1987, and Veterans Day. Provided, however, that the Commission
8 shall not provide for a greater number of total paid holidays than were
9 established for the year 1986. The Commission shall not delete Veterans
10 Day as a holiday. more than 11 paid holidays a year.
- 11 (6) The appointment, promotion, transfer, demotion and ~~suspension-~~
12 suspension of employees.
- 13 (7) Cooperation with the Department of Public Instruction, ~~the State Board~~
14 of Education, ~~the Board of Governors of Education,~~ the University of
15 North Carolina, and the ~~colleges and universities-~~Community Colleges
16 of the State and other appropriate resources in developing ~~pre-service~~
17 and ~~in-service training programs-~~programs in, including but not limited
18 to, management and supervisory skills, performance evaluation,
19 specialized employee skills, accident prevention, equal employment
20 opportunity awareness, and customer service; and to maintain an
21 accredited Certified Public Manager program.
- 22 (7a) The separation of employees.
- 23 (8) The evaluation of employee performance, the granting of ~~salary~~
24 increments, ~~performance salary increases,~~ and a program of meritorious
25 service ~~service~~ awards.
- 26 (9) The investigation of complaints and the issuing of such binding
27 corrective orders or such other appropriate action concerning
28 employment, promotion, demotion, transfer, discharge, and
29 ~~reinstatement-~~reinstatement, and any other issue defined as a contested
30 case issue by this Chapter in all cases as the Commission shall find
31 justified.
- 32 (10) ~~Such-~~Programs of safety, health, employee assistance, productivity
33 incentives, equal opportunity and such other programs and procedures
34 as may be necessary to promote efficiency of administration and
35 provide for a fair and ~~reasonable-~~modern system of personnel
36 administration. This subdivision may not be construed to authorize the
37 establishment of an incentive pay program.
- 38 (11) In cases where the Commission finds discrimination or orders
39 reinstatement or back pay whether (i) heard by the Commission or (ii)
40 appealed for limited review after settlement or (iii) resolved at the
41 agency level, the assessment of reasonable attorneys' fees and
42 witnesses' fees against the State agency involved.
- 43 (14) The implementation of G.S. 126-5(e).

1 (15) Recognition of State employees, public personnel management, and
2 management excellence.

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

6 (1) Employee in a grade 60 or lower position who has not been
7 continuously employed by the State of North Carolina for the
8 immediate 12 preceding months;

9 (2) Employee in a grade 61 to grade 65 position who has not been
10 continuously employed by the State of North Carolina for the
11 immediate 36 preceding months;

12 (3) Employee in a grade 66 to grade 70 position who has not been
13 continuously employed by the State of North Carolina for the
14 immediate 48 preceding months; or

15 (4) Employee in a grade 71 or higher position who has not been
16 continuously employed by the State of North Carolina for the
17 immediate 60 preceding months."

18 Sec. 2. G.S. 126-5(e) reads as rewritten:

19 "(e) An exempt employee may be transferred, demoted, or separated from his
20 position by the department head authorized to designate the exempt position except:

21 (1) When an employee who has the minimum service requirements
22 described in subsection (c)(1) above but less than 10 years of
23 cumulative service in subject positions prior to placement in an exempt
24 position is removed from an exempt position, for reasons other than
25 just cause, the employee shall have priority to any position that
26 becomes available for which the employee is qualified, according to
27 rules and regulations regulating and defining priority as promulgated
28 by the State Personnel Commission; or

29 (2) When an employee who has 10 years or more cumulative service,
30 including the immediately preceding 12 months, in subject positions
31 prior to placement in an exempt position is removed from an exempt
32 position, for reasons other than just cause, the employee shall be
33 reassigned to a subject position within the same department or agency,
34 or if necessary within another agency, and within a 35 mile radius of
35 the exempt position, at the same grade and ~~step~~ salary, including all
36 across-the-board increases since placement in the position designated
37 as exempt, as his most recent subject position.

38 ~~This subsection shall apply to employees removed from exempt positions after July~~
39 ~~1, 1985."~~

40 Sec. 3. G.S. 126-6 reads as rewritten:

41 "§ 126 ♦ ~~(a) All classifications, grades, salaries, conditions of work, and rules and~~
42 ~~regulations established prior to July 1, 1965, by the State Personnel~~
43 ~~Council, the State Personnel Director or the North Carolina Merit~~

1 ~~System Council shall remain in force until amended, repealed, or~~
2 ~~superseded by the Board, acting under the authority of this Chapter.~~

3 (b) ~~The State Personnel Board and the State Personnel Director herein provided~~
4 ~~shall be the successors of the State Personnel Council, the State Personnel Director,~~
5 ~~North Carolina Merit System Council, and the Merit System Supervisor. All records and~~
6 ~~property in the custody of these agencies and individuals are hereby transferred to the~~
7 ~~State Personnel Board and the State Personnel Department, effective July 1, 1965.~~

8 (c) ~~Any status of employment or privilege previously attained by an employee in~~
9 ~~accordance with the State Personnel Act or the State Merit System Act shall continue~~
10 ~~under the provisions of this Chapter."~~

11 ♦ Sec 4. G.S. 126-7.1(c) reads as rewritten:

12 "(c) If a State ~~employee~~:employee subject to this section:

13 (1) Applies for another position of State employment; and

14 (2) Has substantially equal qualifications as an applicant who is not a State
15 employee

16 then the State employee shall receive priority consideration over the applicant who is
17 not a State employee. This priority consideration shall not apply when the only
18 applicants considered for the vacancy are current State employees."

19 Sec. 5. G.S. 126-11(d) reads as rewritten:

20 "(d) In order to define 'substantially equivalent,' the State Personnel Commission
21 is authorized to promulgate rules and regulations to implement the federal merit system
22 standards and these regulations at a minimum shall include: recruitment and selection of
23 employees; position classification; pay administration; training; employee relations;
24 equal employment opportunity; and records and reports."

25 Sec. 6. G.S. 126-16 reads as rewritten:

26 "**§ 126-16. Equal opportunity for employment and compensation by State**
27 **departments and agencies and local political subdivisions.**

28 All State departments and agencies and all local political subdivisions of North
29 Carolina shall give equal opportunity for employment and compensation, without regard
30 to race, religion, color, creed, national origin, sex, age, or handicapping condition as
31 defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age,
32 sex or physical requirements constitute bona fide occupational qualifications necessary
33 to proper and efficient administration. This section with respect to equal opportunity as
34 to age shall be limited to individuals who are at least 40 years of age ~~but less than 70~~
35 ~~years of age.~~age."

36 Sec. 7. G.S. 126-35(a) reads as rewritten:

37 "**§ 126-35. Written statement of reason for disciplinary action.**

38 (a) No permanent employee subject to the State Personnel Act shall be
39 discharged, suspended, or ~~reduced in pay or position,~~demoted for disciplinary reasons,
40 except for just cause. In cases of such disciplinary action, the employee shall, before the
41 action is taken, be furnished with a statement in writing setting forth in numerical order
42 the specific acts or omissions that are the reasons for the disciplinary action and the
43 employee's appeal rights. The employee shall be permitted 15 days from the date the
44 statement is delivered to appeal to the head of the department. ~~A copy of the written~~

1 ~~statement given the employee and the employee's appeal shall be filed by the department with~~
2 ~~the State Personnel Director within five days of their delivery.~~ However, an employee may
3 be suspended without warning for causes relating to personal conduct detrimental to
4 State service, pending the giving of written reasons, in order to avoid undue disruption
5 of work or to protect the safety of persons or property or for other serious reasons. The
6 employee, if he is not satisfied with the final decision of the head of the department, or
7 if he is unable, within a reasonable period of time, to obtain a final decision by the head
8 of the department, may appeal to the State Personnel Commission. Such appeal shall be
9 filed not later than 30 days after receipt of notice of the department head's decision."

10 Sec. 8. G.S. 126-74 reads as rewritten:

11 **"§ 126-74. Work Options Program established.**

12 There is established a Work Options Program for State employees in the ~~Division~~
13 Office of State Personnel to be administered by the State Personnel Commission. The
14 State Personnel Director shall assign an employee within the ~~Division~~ Office of State
15 Personnel, to be known as the State Work Options Coordinator, to direct the Work
16 Options Program as established in this Article."

17 Sec. 9. G.S. 126-83 reads as rewritten:

18 **"§ 126-83. Exceptions.**

19 Notwithstanding G.S. 126-5, and notwithstanding provisions in that section that only
20 certain Articles of this Chapter apply to some employees, this Article applies to all
21 persons covered by this Chapter except those exempted by G.S. 126-5(c) (2), G.S.
22 126-5(c)(3), G.S. 126-5(c)(4), G.S. 126-5(c1), G.S. 126-5(c2), or G.S. 126-5(c3), but
23 this Article does not apply to those persons covered by G.S. 126-5(a)(2). G.S. 128-15
24 shall apply to those persons exempted from coverage of this Article, but shall not apply
25 to any person covered by this Article."

26 Sec. 10. This act is effective upon ratification.