

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 307

Short Title: GPAC/State Performance Pay.

(Public)

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Sponsors: Senator Martin of Guilford.

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Referred to: Government Performance Audit.

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February 22, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT RECOMMENDATIONS OF THE GOVERNMENT  
PERFORMANCE AUDIT COMMITTEE REGARDING STATE EMPLOYEE  
PERFORMANCE PAY AND THE APPRAISAL OF STATE EMPLOYEE  
PERFORMANCE.

The General Assembly of North Carolina enacts:

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

"(c) Performance ~~increases, if awarded,~~ 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.~~ and to reward performance that meets or exceeds performance requirements. Employee performance exceeding requirements will receive greater rewards than performance that only meets performance requirements.

(1a) Employees shall progress through salary grades based upon performance and an employee's location in the salary grade in accordance with guideline charts that identify an employee's current performance rating and location in the pay grade. Guideline charts shall determine the amount of an employee pay increase.

- 1           (2) To be eligible to distribute its share of the performance increase  
2 allocation, a department, agency, or institution shall have an operative  
3 performance appraisal system which has been approved by the State  
4 Personnel Director. The performance appraisal system adopted shall  
5 use a rating scale of:
- 6           a. Five levels, with the top ~~two levels~~ three levels qualifying for  
7 performance increases; or
- 8           b. Other than five levels, with the levels qualifying for  
9 performance increases to be designated by the State Personnel  
10 Commission, for those job classifications in those employing  
11 units where a department, agency, or institution demonstrates to  
12 the State Personnel Commission that some number of levels  
13 other than five would be appropriate, and the State Personnel  
14 Commission, after conducting a public hearing, determines that  
15 a rating scale of other than five levels is more appropriate than  
16 five levels for a particular job classification within a particular  
17 employing unit.

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

- 28           (3) The State Personnel Director shall ~~help~~ coordinate the efforts of  
29 departments, agencies, and institutions to establish and administer their  
30 performance appraisal systems and shall provide initial and ongoing  
31 training in performance appraisal and performance system  
32 administration. Training sessions for supervisory personnel on the  
33 performance appraisal system, effective methods of employee  
34 appraisal, and assessment of individual employee training and  
35 development needs shall be held on a regular basis.

- 36           (3a) Each department, agency, and institution shall determine the individual  
37 training needs of each of its employees in order to provide effective  
38 employee training calculated to foster enhanced employee  
39 performance and to afford each employee the training needed to  
40 achieve performance levels that will result in the award of  
41 performance pay. Individual employee training needs shall be  
42 identified as part of an employee's performance appraisal.

- 43           (4) An employee whose performance ~~exceeds~~ meets or exceeds  
44 performance requirements shall receive a performance increase unless

1 the employee's supervisor justifies in writing to the employee the  
2 decision not to award the performance increase. An employee whose  
3 performance does not ~~exceed~~meet or exceed performance  
4 requirements shall not receive a performance increase. Standards for  
5 performance and standards for performance pay increases may be  
6 established for each department, agency, or institution. These  
7 standards may not set limits so as to preclude an employee whose  
8 performance ~~exceeds~~meets or exceeds performance requirements from  
9 consideration for an increase.

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

23 (5a) If an employee is otherwise eligible for a performance increase and is  
24 at the top of (but does not exceed) a pay scale, the employee shall  
25 receive a performance increase in the form of a performance bonus.  
26 This performance bonus shall be a one-time, lump-sum award paid  
27 separately from any other payment to the employee for the year. Such  
28 award shall not serve to increase the base pay of such employee. An  
29 award of this bonus pursuant to this subdivision does not affect:  
30 a. The value of the top of any pay scale; and  
31 b. The employee's current salary, which will remain at the top of  
32 the pay scale.

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

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

39 (7) An employee who disputes the fairness of his performance evaluation  
40 or the sufficiency of the increase awarded or who believes that he was  
41 unfairly denied a performance increase shall first discuss the problem  
42 with his supervisor. Appeals of the supervisor's decision shall be made  
43 only to the grievance committee or internal performance review board  
44 of the department, agency, or institution which shall make a

1 recommendation to the head of the department, agency, or institution  
2 for final decision. The State Personnel Director shall help a  
3 department, agency, or institution establish an internal performance  
4 review board or, if it includes employee members, to use its existing  
5 grievance committee to hear performance pay disputes.  
6 Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-  
7 34, performance pay disputes, including disputes about individual  
8 performance appraisals, shall not be considered contested case issues.

9 (7a) Each department, agency, and institution shall establish a performance  
10 management and pay advisory committee as part of the performance  
11 appraisal system. The purpose of the committee is to ensure that  
12 performance pay increases are made in an equitable ~~manner~~ manner  
13 and in compliance with the performance appraisal system coordinated  
14 by the Office of State Personnel. The committee shall be responsible  
15 for reviewing:

- 16 a. Agency performance pay policies and performance pay plan to  
17 determine whether this section and any guidelines promulgated  
18 by the Office of State Personnel have been adhered to;
- 19 b. Agency training and education programs to determine whether  
20 all employees receive appropriate information; and
- 21 c. Performance ratings within the department, agency, or  
22 institution to determine whether an equitable distribution has  
23 been made.

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

29 The performance management and pay advisory committee shall  
30 meet at least two times each year. The committee shall submit a  
31 written report following each meeting to the head of the department,  
32 agency, or institution. The report shall include recommendations for  
33 changes and corrections in the administration of the performance  
34 management system. The recommendations of the committee shall be  
35 advisory only. The head of the department, agency, or institution shall  
36 respond to the committee within three months. Copies of the report  
37 shall be included in the report to the Office of State Personnel that is  
38 required of that agency, department, or institution. Summaries of the  
39 report shall be included in the annual reports that are mandated by this  
40 subsection.

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

- 1 (8) The State Personnel Director shall monitor the performance appraisal  
2 system and performance increase distribution of each employing unit  
3 within each department, agency, and institution. Each department,  
4 agency, and institution shall submit to the Director annual reports  
5 which shall include data on the demographics of performance ratings,  
6 the frequency of evaluations, the performance pay increases awarded,  
7 and the implementation schedule for performance pay increases. The  
8 Director shall analyze the data to ensure that performance increases are  
9 distributed fairly within each department, agency, and institution and  
10 across all departments, agencies, and institutions of State government  
11 and shall report back to each department, agency, and institution on its  
12 appraisal and distribution performance.
- 13 (9) The State Personnel Director shall report annually on the performance  
14 pay program to the Commission. The report shall evaluate the  
15 performance of each department, agency, and institution in the  
16 administration of its appraisal system and the distribution of  
17 performance increases within each department, agency, and institution  
18 and across State government. The report shall include  
19 recommendations for improving the performance appraisal system and  
20 alleviating inequities. Copies of the report shall be sent to the State  
21 Auditor.
- 22 (10) The Commission shall report annually to the Governor, the Lieutenant  
23 Governor, the President Pro Tempore of the Senate, the Speaker of the  
24 House of Representatives, and the Standing Personnel Committees of  
25 the House and the Senate. The Commission report shall include an  
26 evaluation of the administration of the appraisal system and  
27 distribution of performance increases by each department, agency, and  
28 institution. The State Personnel Director shall recommend to the  
29 General Assembly for its approval sanctions to be levied against  
30 departments, agencies, and institutions that have deficient appraisal  
31 systems or that do not link performance increases to performance.  
32 These sanctions may include withholding performance increases from  
33 the managers and supervisors of individual employing units of  
34 departments, agencies, and institutions in which discrepancies exist."

35 Sec. 2. This act is effective upon ratification.