

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1148

Short Title: Decentralize Some OSP Functions.

(Public)

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Sponsors: Representatives Pulley, Sherrill (Co-sponsors); Thompson, Culp, Rayfield, and McMahan.

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Referred to: State Government.

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May 15, 1996

A BILL TO BE ENTITLED

1  
2 AN ACT TO REDUCE DUPLICATION OF WORK BETWEEN THE OFFICE OF  
3 STATE PERSONNEL AND OTHER AGENCIES, DEPARTMENTS, AND  
4 INSTITUTIONS BY THE DECENTRALIZATION OF CERTAIN FUNCTIONS  
5 FROM THE OFFICE OF STATE PERSONNEL TO THOSE AGENCIES,  
6 DEPARTMENTS, AND INSTITUTIONS.

7 The General Assembly of North Carolina enacts:

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

9 **"ARTICLE 1.**

10 **"STATE PERSONNEL SYSTEM ESTABLISHED.**

11 **"§ 126-1. Purpose of Chapter; application to local employees.**

12 It is the intent and purpose of this Chapter to establish for the government of the State  
13 a system of personnel administration under the Governor, based on accepted principles of  
14 personnel administration and applying the best methods as evolved in government and  
15 industry. It is also the intent of this Chapter that this system of personnel administration  
16 shall apply to local employees paid entirely or in part from federal funds, except to the  
17 extent that local governing boards are authorized by this Chapter to establish local rules,  
18 local pay plans, and local personnel systems. It is also the intent of this Chapter to make  
19 provisions for a decentralized system of personnel administration, where appropriate, and

1 without additional cost to the State, with the State Personnel Commission as the policy  
2 and rule-making body. The Office of State Personnel shall make recommendations for  
3 policies and rules to the Commission based on research and study in the field of  
4 personnel management, develop and administer statewide standards and criteria for good  
5 personnel management, provide training and technical assistance to all agencies,  
6 departments, and institutions, provide oversight, which includes conducting audits to  
7 monitor compliance with established State Personnel Commission policies and rules,  
8 administer a system for implementing necessary corrective actions when the rule,  
9 standards, or criteria are not met, and serve as the central repository for State Personnel  
10 System data. The agency, department, and institution heads shall be responsible and  
11 accountable for execution of Commission policies and rules for their employees."

12 Sec. 2. G.S. 126-3 reads as rewritten:

13 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**  
14 **administration and supervision; appointment, compensation and tenure of**  
15 **Director.**

16 (a) There is hereby established the Office of State Personnel (hereinafter referred  
17 to as 'the Office') which shall be placed for organizational purposes within the  
18 Department of Administration. Notwithstanding the provisions of North Carolina State  
19 government reorganization as of January 1, 1975, and specifically notwithstanding the  
20 provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the  
21 Office of State Personnel shall exercise all of its statutory powers in this Chapter  
22 independent of control by the Secretary of Administration and shall be under the  
23 administration and supervision of a State Personnel Director (hereinafter referred to as  
24 'the Director') appointed by the Governor and subject to the supervision of the  
25 Commission for purposes of this Chapter. The salary of the Director shall be fixed by the  
26 General Assembly in the Current Operations Appropriations Act. The Director shall serve  
27 at the pleasure of the Governor.

28 (b) The Office shall be responsible for the following activities, and such other  
29 activities as specified in this Chapter:

- 30 (1) Providing policy and rule development for the Commission and  
31 implementing and administering all policies, rules, and procedures  
32 established by the Commission;  
33 (2) Providing training in personnel management to agencies, departments,  
34 and institutions including train-the-trainer programs for those agencies,  
35 departments, and institutions who request such training and where  
36 sufficient staff and expertise exist to provide the training within their  
37 respective agencies, departments, and institutions;  
38 (3) Providing technical assistance in the management of personnel  
39 programs and activities to agencies, departments, and institutions;  
40 (4) Negotiating decentralization agreements with all agencies, departments,  
41 and institutions, where it is cost-effective to include delegation of  
42 authority for certain classification and corresponding salary

1 administration actions and other personnel programs to be specified in  
2 the agreements;

3 (5) Administering such centralized programs and providing services as  
4 approved by the Commission which have not been transferred to  
5 agencies, departments, and institutions or where this authority has been  
6 rescinded for noncompliance;

7 (6) Providing approval authority of personnel actions involving  
8 classification and compensation where such approval authority has not  
9 been transferred by the Commission to agencies, departments, and  
10 institutions or where such authority has been rescinded for  
11 noncompliance;

12 (7) Maintaining a computer database of all relevant and necessary  
13 information on employees and positions within agencies, departments,  
14 and institutions in the State's personnel system;

15 (8) Developing criteria and standards to measure the level of compliance or  
16 noncompliance with established Commission policies, rules,  
17 procedures, criteria, and standards in agencies, departments, and  
18 institutions to which authority has been delegated for classification,  
19 salary administration and other decentralized programs, and  
20 determining, through routine monitoring and periodic review process,  
21 that agencies, departments, and institutions are in compliance or  
22 noncompliance with established Commission policies, rules,  
23 procedures, criteria, and standards;

24 (9) Implementing corrective actions in cases of noncompliance."

25 Sec. 3. G.S. 126-4 reads as rewritten:

26 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

29 (1) Position classification plans which shall provide for the classification  
30 and reclassification of all positions subject to this Chapter according to  
31 the duties and responsibilities of the positions.

32 (2) Compensation plans which shall provide for minimum, maximum, and  
33 intermediate rates of pay for all employees subject to the provisions of  
34 this Chapter.

35 (3) For each class of positions, reasonable qualifications as to education,  
36 experience, specialized training, licenses, certifications, and other job-  
37 related requirements pertinent to the work to be performed.

38 (4) Recruitment programs designed to promote public employment,  
39 communicate current hiring activities within State government, and  
40 attract a sufficient flow of internal and external applicants; and  
41 determine the relative fitness of applicants for the respective positions.

42 (5) Hours and days of work, holidays, vacation, sick leave, and other  
43 matters pertaining to the conditions of employment. The legal public

1 holidays established by the Commission as paid holidays for State  
2 employees shall include Martin Luther King, Jr.'s Birthday and Veterans  
3 Day. The Commission shall not provide for more than 11 paid holidays  
4 per year except that in those years in which Christmas Day falls on a  
5 Tuesday, Wednesday, or Thursday, the Commission shall not provide  
6 for more than 12 paid holidays.

7 (5a) In years in which New Year's Day falls on Saturday, the Commission  
8 may designate December 31 of the previous calendar year as the New  
9 Year's holiday, provided that the number of holidays for the previous  
10 calendar year does not exceed 12 and the number of holidays for the  
11 current year does not exceed 10. When New Year's Day falls on either  
12 Saturday or Sunday, the constituent institutions of The University of  
13 North Carolina that adopt alternative dates to recognize the legal public  
14 holidays set forth in subdivision (5) of this section and established by  
15 the Commission may designate, in accordance with the rules of the  
16 Commission and the requirements of this subdivision, December 31 of  
17 the previous calendar year as the New Year's holiday.

18 (6) The appointment, promotion, transfer, demotion and suspension of  
19 employees.

20 (7) Cooperation with the State Board of Education, the Department of  
21 Public Instruction, the University of North Carolina, and the  
22 Community Colleges of the State and other appropriate resources in  
23 developing programs in, including but not limited to, management and  
24 supervisory skills, performance evaluation, specialized employee skills,  
25 accident prevention, equal employment opportunity awareness, and  
26 customer service; and to maintain an accredited Certified Public  
27 Manager program.

28 (7a) The separation of employees.

29 (8) A program of meritorious service awards.

30 (9) The investigation of complaints and the issuing of such binding  
31 corrective orders or such other appropriate action concerning  
32 employment, promotion, demotion, transfer, discharge, reinstatement,  
33 and any other issue defined as a contested case issue by this Chapter in  
34 all cases as the Commission shall find justified.

35 (10) Programs of employee assistance, productivity incentives, equal  
36 opportunity, safety and health as required by Part 1 of Article 63 of  
37 Chapter 143 of the General Statutes, and such other programs and  
38 procedures as may be necessary to promote efficiency of administration  
39 and provide for a fair and modern system of personnel administration.  
40 This subdivision may not be construed to authorize the establishment of  
41 an incentive pay program.

42 (11) In cases where the Commission finds discrimination or orders  
43 reinstatement or back pay whether (i) heard by the Commission or (ii)

- 1            appealed for limited review after settlement or (iii) resolved at the  
2            agency level, the assessment of reasonable attorneys' fees and witnesses'  
3            fees against the State agency involved.
- 4            (12) Repealed by Session Laws 1987, c. 320, s. 2.
- 5            (13) Repealed by Session Laws 1987, c. 320, s. 3.
- 6            (14) The implementation of G.S. 126-5(e).
- 7            (15) Recognition of State employees, public personnel management, and  
8            management excellence.
- 9            (16) The implementation of G.S. 126-7.
- 10           (17) An alternative dispute resolution procedure.
- 11           (18) The decentralization process, where appropriate, for state agencies,  
12           departments, and institutions, and enforcement of corrective actions  
13           including reducing employee salaries and changing employee  
14           classifications that do not comply with the policy, criteria, or standards;  
15           also includes, but is not limited to, suspension of decentralization  
16           agreements in cases of noncompliance; and in cases of suspension of  
17           decentralization agreements for noncompliance, the assessment and  
18           reimbursement to the Office of State Personnel for resulting operational  
19           and personnel costs associated with the period of modification of the  
20           agreement. The Office of State Budget and Management is authorized  
21           to allow agencies, departments, and institutions to use lapsed salaries  
22           and salary reserves for this purpose and shall direct use of such funds  
23           for this purpose upon being notified by the State Personnel  
24           Commission.
- 25           The policies and rules of the Commission shall not limit the power of any elected or  
26           appointed department head, in the department head's discretion and upon the department  
27           head's determination that it is in the best interest of the Department, to transfer, demote,  
28           or separate a State employee who is not a career State employee as defined by this  
29           Chapter."
- 30           Sec. 4. This act becomes effective October 1, 1996.