

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 275
Committee Substitute Favorable 3/26/97

Short Title: Delegation of Some OSP Functions.

(Public)

Sponsors:

Referred to:

February 19, 1997

A BILL TO BE ENTITLED

AN ACT TO REDUCE DUPLICATION OF WORK BETWEEN THE OFFICE OF STATE PERSONNEL AND OTHER AGENCIES, DEPARTMENTS, AND INSTITUTIONS BY THE DELEGATION OF AUTHORITY OF CERTAIN FUNCTIONS FROM THE OFFICE OF STATE PERSONNEL TO THOSE AGENCIES, DEPARTMENTS, AND INSTITUTIONS.

The General Assembly of North Carolina enacts:

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

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

It is the intent and purpose of this Chapter to establish for the government of the State a system of personnel administration under the Governor, based on accepted principles of personnel administration and applying the best methods as evolved in government and industry. It is also the intent of this Chapter that this system of personnel administration shall apply to local employees paid entirely or in part from federal funds, except to the extent that local governing boards are authorized by this Chapter to establish local rules, local pay plans, and local personnel systems. It is also the intent of this Chapter to make provisions for a decentralized system of personnel administration, where appropriate, and without additional cost to the State, with the State Personnel Commission as the policy and rule-making body. The Office of State Personnel shall make recommendations for

1 policies and rules to the Commission based on research and study in the field of
2 personnel management, develop and administer statewide standards and criteria for good
3 personnel management, provide training and technical assistance to all agencies,
4 departments, and institutions, provide oversight, which includes conducting audits to
5 monitor compliance with established State Personnel Commission policies and rules,
6 administer a system for implementing necessary corrective actions when the rule,
7 standards, or criteria are not met, and serve as the central repository for State Personnel
8 System data. The agency, department, and institution heads shall be responsible and
9 accountable for execution of Commission policies and rules for their employees."

10 Section 2. G.S. 126-3 reads as rewritten:

11 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**
12 **administration and supervision; appointment, compensation and tenure of**
13 **Director.**

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

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

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

- 1 (5) Administering such centralized programs and providing services as
2 approved by the Commission which have not been transferred to
3 agencies, departments, and institutions or where this authority has been
4 rescinded for noncompliance;
- 5 (6) Providing approval authority of personnel actions involving
6 classification and compensation where such approval authority has not
7 been transferred by the Commission to agencies, departments, and
8 institutions or where such authority has been rescinded for
9 noncompliance;
- 10 (7) Maintaining a computer database of all relevant and necessary
11 information on employees and positions within agencies, departments,
12 and institutions in the State's personnel system;
- 13 (8) Developing criteria and standards to measure the level of compliance or
14 noncompliance with established Commission policies, rules,
15 procedures, criteria, and standards in agencies, departments, and
16 institutions to which authority has been delegated for classification,
17 salary administration and other decentralized programs, and determining
18 through routine monitoring and periodic review process, that agencies,
19 departments, and institutions are in compliance or noncompliance with
20 established Commission policies, rules, procedures, criteria, and
21 standards; and
- 22 (9) Implementing corrective actions in cases of noncompliance."

23 Section 3. G.S. 126-4 reads as rewritten:

24 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 27 (1) Position classification plans which shall provide for the classification
28 and reclassification of all positions subject to this Chapter according to
29 the duties and responsibilities of the positions.
- 30 (2) Compensation plans which shall provide for minimum, maximum, and
31 intermediate rates of pay for all employees subject to the provisions of
32 this Chapter.
- 33 (3) For each class of positions, reasonable qualifications as to education,
34 experience, specialized training, licenses, certifications, and other job-
35 related requirements pertinent to the work to be performed.
- 36 (4) Recruitment programs designed to promote public employment,
37 communicate current hiring activities within State government, and
38 attract a sufficient flow of internal and external applicants; and
39 determine the relative fitness of applicants for the respective positions.
- 40 (5) Hours and days of work, holidays, vacation, sick leave, and other
41 matters pertaining to the conditions of employment. The legal public
42 holidays established by the Commission as paid holidays for State
43 employees shall include Martin Luther King, Jr.'s Birthday and Veterans

1 Day. The Commission shall not provide for more than 11 paid holidays
2 per year except that in those years in which Christmas Day falls on a
3 Tuesday, Wednesday, or Thursday, the Commission shall not provide
4 for more than 12 paid holidays.

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

16 (6) The appointment, promotion, transfer, demotion and suspension of
17 employees.

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

26 (7a) The separation of employees.

27 (8) A program of meritorious service awards.

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

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

40 (11) In cases where the Commission finds discrimination or orders
41 reinstatement or back pay whether (i) heard by the Commission or (ii)
42 appealed for limited review after settlement or (iii) resolved at the

1 agency level, the assessment of reasonable attorneys' fees and witnesses'
2 fees against the State agency involved.

3 (12) Repealed by Session Laws 1987, c. 320, s. 2.

4 (13) Repealed by Session Laws 1987, c. 320, s. 3.

5 (14) The implementation of G.S. 126-5(e).

6 (15) Recognition of State employees, public personnel management, and
7 management excellence.

8 (16) The implementation of G.S. 126-7.

9 (17) An alternative dispute resolution procedure.

10 (18) a. Delegation of authority for approval of personnel actions through
11 decentralized agreements to the heads of State agencies, departments,
12 and institutions. Any such delegation made to Executive Branch
13 agencies shall require that the position in the agency that is directly
14 responsible for personnel administration have a dual reporting
15 relationship to the agency head, or designee, and to the State Personnel
16 Director for accountability of personnel actions made by the agency.
17 Such joint reporting relationships shall become a part of new and
18 existing decentralization agreements, and the terms of the agreements
19 will establish the rules relating to the joint appointment and to the
20 required standards in the performance of personnel administration.

21 b. The decentralization process, where appropriate, for State
22 agencies, departments, and institutions, and enforcement of
23 corrective actions including reducing employee salaries and
24 changing employee classifications that do not comply with the
25 policy, criteria, or standards; also includes, but is not limited to,
26 suspension of decentralization agreements in cases of
27 noncompliance; and in cases of suspension of decentralization
28 agreements for noncompliance, the assessment and
29 reimbursement to the Office of State Personnel for resulting
30 operational and personnel costs associated with the period of
31 modification of the agreement. The Office of State Budget and
32 Management is authorized to allow agencies, departments, and
33 institutions to use lapsed salaries and salary reserves for this
34 purpose and shall direct use of such funds for this purpose upon
35 being notified by the State Personnel Commission.

36 The policies and rules of the Commission shall not limit the power of any elected or
37 appointed department head, in the department head's discretion and upon the department
38 head's determination that it is in the best interest of the Department, to transfer, demote,
39 or separate a State employee who is not a career State employee as defined by this
40 Chapter."

41 Section 4. This act becomes effective January 1, 1998.