

GENERAL ASSEMBLY OF NORTH CAROLINA
1997 SESSION

S.L. 1997-349
HOUSE BILL 275

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

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

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

(a) There is hereby established the Office of State Personnel (hereinafter referred to as 'the Office') which shall be placed for organizational purposes within the

Department of Administration. Notwithstanding the provisions of North Carolina State government reorganization as of January 1, 1975, and specifically notwithstanding the provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of State Personnel shall exercise all of its statutory powers in this Chapter independent of control by the Secretary of Administration and shall be under the administration and supervision of a State Personnel Director (hereinafter referred to as 'the Director') appointed by the Governor and subject to the supervision of the Commission for purposes of this Chapter. The salary of the Director shall be fixed by the General Assembly in the Current Operations Appropriations Act. The Director shall serve at the pleasure of the Governor.

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

- (1) Providing policy and rule development for the Commission and implementing and administering all policies, rules, and procedures established by the Commission;
- (2) Providing training in personnel management to agencies, departments, and institutions including train-the-trainer programs for those agencies, departments, and institutions who request such training and where sufficient staff and expertise exist to provide the training within their respective agencies, departments, and institutions;
- (3) Providing technical assistance in the management of personnel programs and activities to agencies, departments, and institutions;
- (4) Negotiating decentralization agreements with all agencies, departments, and institutions where it is cost-effective to include delegation of authority for certain classification and corresponding salary administration actions and other personnel programs to be specified in the agreements;
- (5) Administering such centralized programs and providing services as approved by the Commission which have not been transferred to agencies, departments, and institutions or where this authority has been rescinded for noncompliance;
- (6) Providing approval authority of personnel actions involving classification and compensation where such approval authority has not been transferred by the Commission to agencies, departments, and institutions or where such authority has been rescinded for noncompliance;
- (7) Maintaining a computer database of all relevant and necessary information on employees and positions within agencies, departments, and institutions in the State's personnel system;
- (8) Developing criteria and standards to measure the level of compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards in agencies, departments, and institutions to which authority has been delegated for classification, salary administration and other decentralized programs, and

determining through routine monitoring and periodic review process, that agencies, departments, and institutions are in compliance or noncompliance with established Commission policies, rules, procedures, criteria, and standards; and

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

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

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

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

- (1) Position classification plans which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.
- (4) Recruitment programs designed to promote public employment, communicate current hiring activities within State government, and attract a sufficient flow of internal and external applicants; and determine the relative fitness of applicants for the respective positions.
- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s Birthday and Veterans Day. The Commission shall not provide for more than 11 paid holidays per year except that in those years in which Christmas Day falls on a Tuesday, Wednesday, or Thursday, the Commission shall not provide for more than 12 paid holidays.
- (5a) In years in which New Year's Day falls on Saturday, the Commission may designate December 31 of the previous calendar year as the New Year's holiday, provided that the number of holidays for the previous calendar year does not exceed 12 and the number of holidays for the current year does not exceed 10. When New Year's Day falls on either Saturday or Sunday, the constituent institutions of The University of North Carolina that adopt alternative dates to recognize the legal public holidays set forth in subdivision (5) of this section and established by the Commission may designate, in accordance with the rules of the Commission and the requirements of this subdivision, December 31 of the previous calendar year as the New Year's holiday.
- (6) The appointment, promotion, transfer, demotion and suspension of employees.

- (7) Cooperation with the State Board of Education, the Department of Public Instruction, the University of North Carolina, and the Community Colleges of the State and other appropriate resources in developing programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program.
- (7a) The separation of employees.
- (8) A program of meritorious service awards.
- (9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.
- (10) Programs of employee assistance, productivity incentives, equal opportunity, safety and health as required by Part 1 of Article 63 of Chapter 143 of the General Statutes, and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.
- (11) In cases where the Commission finds discrimination or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.
- (12) Repealed by Session Laws 1987, c. 320, s. 2.
- (13) Repealed by Session Laws 1987, c. 320, s. 3.
- (14) The implementation of G.S. 126-5(e).
- (15) Recognition of State employees, public personnel management, and management excellence.
- (16) The implementation of G.S. 126-7.
- (17) An alternative dispute resolution procedure.
- (18) Delegation of authority for approval of personnel actions through decentralization agreements with the heads of State agencies, departments, and institutions.
 - a. Decentralization agreements with Executive Branch agencies shall require a person, designated in the agency, to be accountable to the State Personnel Director for the compliance of all personnel actions taken pursuant to the delegated authority of the agency. Such agreements shall specify the required rules and standards for agency personnel administration.

- b. The State Personnel Director shall have the authority to take appropriate corrective actions including adjusting employee salaries and changing employee classifications that are not in compliance with policy or standards and to suspend decentralization agreements for agency noncompliance with the required personnel administration standards.

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

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

In the General Assembly read three times and ratified this the 21st day of July, 1997.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 3:57 p.m. this 1st day of August, 1997