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**COMMISSION ON
STATE PERSONNEL SYSTEM**



**REPORT TO THE
1993 GENERAL ASSEMBLY
OF NORTH CAROLINA**

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NORTH CAROLINA GENERAL ASSEMBLY

January 27, 1993

TO THE MEMBERS OF THE 1993 GENERAL ASSEMBLY:

The Study Commission on the State Personnel System submits to you for your consideration its final report on the State Personnel System. The report was prepared by the General Assembly's Commission on the State Personnel System pursuant to Section 4.4 of Chapter 754 of the 1991 Session Laws.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Joe Johnson", written over a horizontal line.

Senator Joseph E. Johnson

A handwritten signature in dark ink, appearing to read "Milton F. Fitch, Jr.", written over a horizontal line.

Representative Milton F. Fitch, Jr.

Cochairmen

Study Commission on the State Personnel System



PREFACE

The Commission on the State Personnel System was established by Part IV of Chapter 754 of the 1991 Session Laws. The Commission is made up of nine voting members: three senators appointed by the President Pro Tempore of the Senate, three representatives appointed by the Speaker of the House, and three public members appointed by the Governor. The Commission is chaired by Senator Joseph E. Johnson and Representative Milton F. "Toby" Fitch, Jr.

The Commission is authorized to study all aspects of the State Personnel System pursuant to Section 51.2 of Chapter 761 of the 1991 Session Laws. Section 18 of Part 8 of Chapter 689 of the 1991 Session Laws authorizes the Commission to study any statutory changes which might facilitate the Office of State Personnel's decentralization of classification and salary administrative functions in all State departments with more than 500 full-time employees. (Enabling legislation is contained in Appendix A.)

The full membership of the Commission is listed in Appendix B. A committee notebook containing the minutes and all information presented to the Commission will be filed in the Legislative Library.

PREFACE

The Commission on the State Personnel System was established by Part IV of Chapter 754 of the 1991 Session Laws. The Commission is made up of nine voting members: three senators appointed by the President Pro Tempore of the Senate, three representatives appointed by the Speaker of the House, and three public members appointed by the Governor. The Commission is chaired by Senator Joseph E. Johnson and Representative Milton F. "Toby" Fitch, Jr.

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COMMISSION PROCEEDINGS

The State Personnel System Study Commission met five times after the conclusion of the 1992 Regular Session of the General Assembly: August 19, 1992; October 13, 1992; December 1, 1992; January 7, 1993; and January 22, 1993. The Commission is indebted to those persons who appeared to testify before the Commission and to those who regularly attended the meetings of the Commission.

August 19, 1992 Meeting

The Commission spent its first meeting after the 1992 Regular Session receiving updates, noting issues on which to follow-up, and developing an approach to address and develop recommendations for each of its three mandated areas of study. The Commission heard staff presentations summarizing ratified legislation, and significant defeated legislation which impacts State employees. In terms of the legislative proposals preferred by the Commission, one of the two, Senate Bill 1036, OSP Decentralization Repeal, was among the ratified bills; the other, State Employee Compensation, Senate Bill 1035, was defeated.

Senator J.K. Sherron and Representative Milton Fitch commented on Section 14 of Senate Bill 1205 which placed a sunset date of December 31, 1993 on the Dependent Care Program and Flexible Benefits Program. Both expressed concern at the impending loss of such a valuable employee benefit because of the practice of using the employer savings from FICA contributions to pay the administrative costs of the programs. Each stated that such a practice was not in keeping with the legislature's original intent. In addition, an inequitable situation resulted when one group of employees began to receive a state-sponsored benefit which others were not receiving. Bearing these considerations in mind, the Commission determined to add this issue to its list of topics for further review.

Ms. Christine Lanning of the State Employees Association of North Carolina (SEANC) summarized the progress that Senate Bill 1035 made through the legislative process. She indicated that the primary stated concerns from legislative members dealt with: (1) the need to clarify the differences between the teachers' salary plan and the proposed plan for State employees; and (2) the fact that the

Government Performance Audit Committee would be looking at the personnel area and considering possible changes.

Mr. Tom Goodwin, with the Department of Public Instruction, presented a comparison of the two plans to give the Commission a sense of the differences. Ms. Lanning noted that seventy-three percent of State employees have salaries below the midpoint level which is used to represent the average competitive salary for a job. Several options were mentioned as possibilities for moving such employees through the salary range to reach the average competitive salary point more quickly. Commission members concluded that data comparing the proposed plan, with different pay systems to include those from the military, federal sector, and major companies in private industry, would be needed to effectively defend the proposed comprehensive compensation plan.

Staff restated the equity issues which were brought before the Commission immediately prior to the 1992 Regular Session. The Commission established priorities and, due to the limited time remaining for meetings, developed a sub-committee structure to assign each of the major areas delegated to the Commission for its consideration and review.

October 13, 1992 Meeting

A second full Commission meeting was held to receive an overview of the Government Performance Audit Committee's draft Phase I Performance Audit of Personnel Systems report. Mr. Curtis Clark, Director of the Government Performance Audit Committee, explained that the Government Performance Audit Committee (GPAC) was commissioned by the 1992 Session of the General Assembly to look at the management systems of state government. Budgeting, planning, personnel, purchasing, and information technology and organization standards comprised the Phase I analyses discussed in the draft report.

Mr. Clark outlined the overall study process. He explained that GPAC was in the process of meeting with both primary and affected agencies, reviewing the issues, and receiving input and questions in its move toward firming up recommendations and developing the final report. Mr. Clark highlighted the following preliminary conclusions concerning personnel issues:

- The notion of performance budgeting moving forward with a pilot to test the concept.
- The issue of centralization vs. decentralization is a question of how to balance central policy direction with decentralized management and whether the State will be better off in the long run with central policy direction and decentralized management of personnel functions across the board.
- In the area of classification and compensation, the State needs to consider an almost complete revision of the current classification system.
- The current personnel system has some inequities in it that need to be addressed by restructuring the process.
- Longevity pay should be viewed and treated as a continuing piece of total compensation.
- Inequities in longevity are in existence between the three branches of government; the committee questions whether the State can continue to support such inequities in a new, revised compensation system.
- The State should move away from its current longevity practice and place those monies into a performance pay system that rewards employees on the basis of their performance.

In addressing the pay for performance preliminary recommendations, Mr. Clark indicated that the audit committee used a different approach than that proposed by the Commission through its earlier compensation bill. The GPAC proposed plan is based on where an employee falls in the evaluation system and how much money is in the pool that can be appropriated by the General Assembly. Finally, the draft report examined the health benefit cost equation in terms of its impact on the cost of running state government and how controls can be brought into the system.

SEANC representatives commented on the importance of the compensation issue to its members and indicated that the employees' association has listed it as their top priority. Concern with the role of performance ratings in a pay plan was expressed and the position of the employees' association with regard to longevity was stated.

Ms. Christine Lanning presented a comparison of the three pay plan models, the State's current pay plan, the proposed draft GPAC plan, and the comprehensive compensation program recommended in the Commission's 1992 report to the General Assembly. She illustrated the effects on a new employee, an employee

around the midpoint, and an employee at the top of the salary range. She concluded that each "employee" would fare better under the comprehensive compensation program.

December 1, 1992 Meeting

The meeting began with Mr. Bill Rowe of the N.C. Legal Services Resource Center addressing the Commission regarding concerns with the State Personnel Act, as it relates and applies to those covered local government employees. Ms. Jane Wettach of the Raleigh Legal Services Office, who has represented local government employees, explained the procedural hurdles faced by such employees. She outlined further the problem of having both a recommended decision and an advisory decision without a final decision in a contested case.

In citing possible solutions and changes to the State Personnel Act, Ms. Wettach suggested that the State Personnel Commission be removed from the process. She proposed that the statutes be amended to reflect that, in cases involving local government employees subject to the State Personnel Act, the recommended decision of the Administrative Law Judge be transmitted to the agency which would then make a final decision. Ms. Wettach maintained that, in removing one step from the process, local government employees would be placed in a position similar to that of other State employees who are subject to the Act.

Ms. Susan Hutchins, a member of the Commission and Personnel Director for the Department of Human Resources, explained that the majority of the local government employees covered by the State Personnel Act fall under the jurisdiction of the Department of Human Resources (DHR). The department has a real concern for insuring the equity of service delivery across the State and the maintenance of some standard levels in work duties and responsibilities. As such, DHR holds a special interest in any proposed change(s) concerning that group of employees.

The Commission expressed its willingness to review those draft statutory changes which represented a consensus by the Legal Services, affected agency personnel, N.C. Association of County Commissioners, and other concerned groups.

In moving on to the issue of a comprehensive compensation program for State employees, the Commission was reminded of the progress of Senate Bill 1035

through the system during the 1992 Regular Session of the General Assembly. Mr. Bob Berlam of the State Employees Association of North Carolina expressed concern with the recommendations made by the Government Performance Audit Committee. He noted that although that group proposed a different pay structure, the emphasis remains on performance, which is also the focus in SEANC's proposed comprehensive compensation program. The Commission voted to again submit a bill recommending the comprehensive compensation package proposal to the 1993 General Assembly as part of its final report.

January 7, 1993 Meeting

Ms. Florence Glasser of N.C. Equity presented an overview of their latest research, Solving the Workplace Puzzle: Fitting Work & Family Together in Government Workplaces of North Carolina. She summarized the extent of changes in the American family and labor force over the past two decades. She stated that, by 1990, 49 percent of North Carolina's labor force was female. According to the 1990 Census two-thirds of mothers of preschool children and 80 percent of mothers of school age children in North Carolina work. Another 20 of 30 percent of employees in the country care for elderly relatives. In addition, 70 percent of men in the nation's labor force have wives who also are employed.

She reminded the Commission of the need to pay more attention to the family supportive programs in different government sectors. Ms. Glasser indicated that surveyed employees noted that the only way State employees receive help today with their child care needs is through the flexible benefits and dependent care packages. She requested that the Commission petition the General Assembly to be allowed to continue its work and urged the members to be supportive of family-friendly benefits, programs, and legislation.

The Commission reviewed two draft legislative proposals to change the appeals process for local government employees covered by the State Personnel Act. Mr. Bill Rowe explained that the two proposals were the result of a meeting between representatives of the Office of State Personnel, Department of Human Resources, and Association of County Commissioners. He stated that the major difference between the two was the elimination of the State Personnel Commission from the

process. Draft One, the version preferred by N.C. Legal Services, embodied that approach.

Ms. Susan Hutchins stated concerns from a DHR perspective, concluding that the agency's preference is to continue to involve the State Personnel Commission in the process.

Ms. Patrice Rossler of the Association of County Commissioners acknowledged the sensibility in having a requirement that once a decision has been rendered at the state level, a county must address it in some way. She further noted the need for timeliness to be built into the process along with notification to the manager and Board of Commissioners that decisions were waiting to be heard. Ms. Rossler expressed concern that county governments would have a greater potential burden to hire or retain attorneys for legal expertise in order to respond to cases. She stated the association's preference for the State Personnel Commission's continued inclusion in the process, and requested the opportunity to return to the Commission with comments from responding counties.

The Commission adopted Draft Two and moved on to receive sub-committee reports on decentralization and salary inequities. Senator Sherron, sub-committee chairman, raised the issue of flexible benefits programs which had been added to the Decentralization Sub-committee. He gave a brief historical overview, restated the concerns expressed at the Commission's earlier meeting, and called the Commission's attention to information received from Colonial Life during the sub-committee meeting.

The Commission reviewed the draft and made slight modifications before adopting the measure to recommend that the Budget Director be authorized to conduct a study of the State's flexible compensation and dependent care programs.

Representative Fitch reported that the sub-committee had not been able to meet due to the illness and passing of Representative Nick Jeralds, the sub-committee chair. Representative Fitch recommended that the Commission consider House Bill 957 as a possible mechanism for beginning to address the inequities issue. After a lengthy discussion and review period, the Commission adopted the modified measure for inclusion in its report to the 1993 General Assembly.

The Commission directed that proposals concerning the following issues be prepared and ready, at the next meeting, for review and inclusion in the Commission's final report: comprehensive pay plan, flexible compensation and

dependent care, appeals item for county government employees, and salary inequities.

January 22, 1993 Meeting

At its last meeting, the Commission received input from affected and interested parties as it finalized its findings and recommendations. Members discussed and amended the draft legislative proposals to effect the Commission's intent and recommendations. Staff was directed to prepare a final report summarizing the Commission's work and including the draft legislation, as approved, to address the Commission's recommendations in the following subject areas:

- Proposed comprehensive salary structure for State employees subject to the State Personnel Act;
- Identifying salary inequities in ranks of employees subject to the State Personnel Act;
- Reevaluation of the flexible compensation and dependent care programs;
- Change in the appeals process for local government employees subject to the State Personnel Act; and
- Need for ongoing study of the State Personnel System.

FINDINGS AND RECOMMENDATIONS

The State Personnel Study Commission makes the following final findings and recommendations to the 1993 General Assembly:

Salary Structure for State Employees Subject to the State Personnel Act

The current pay structure for employees subject to the State Personnel Act fails to effectuate fully the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to retain a competent work force. Salary increases to State employees subject to the State Personnel Act should be based on the individual performance of each employee.

Establishing a pay plan that awards compensation based upon individual employee performance should be a major priority of the 1993 General Assembly.

Recommendation #1:

The Commission therefore recommends that the General Assembly establish a comprehensive compensation system based upon employee performance to provide for the fair compensation of State employees subject to the State Personnel Act. (See Legislative Proposal I)

Salary Inequities in Ranks of Employees Subject to the State Personnel Act

Artificially created inequalities in salaries of equally qualified employees impact all employees throughout every level of the N.C. State government workforce. Such inequalities create a poor work environment, depress individual morale, and decrease overall productivity and efficiency. Undesired effects are exacerbated all the more when the basis used in making the distinction appears to be related solely to race and gender. A fair system of compensation is needed and would go a long way toward correcting salary inequities to the extent that correction is feasible.

Recommendation #2:

The Commission hereby recommends that the Commission adopt legislation to establish a structure to identify and correct inequities

in the salaries of equally qualified minorities, females, and white male employees within occupational categories under the State Personnel Act in State government. (See Legislative Proposal II)

Reevaluation of Flexible Compensation and Dependent Care Programs

The Commission recognizes the value of the Dependent Care Program and Flexible Benefits Program as viable benefits for State employees and, as such, would like to see employees utilize them. Having received information which indicates, at least on the surface, that these benefits can be administered in a cost-effective way for both the State and the employee, the Commission recommends that a final effort be made to determine whether the State could maintain this benefit offering to its employees.

Recommendation #3:

The Commission hereby recommends that the General Assembly authorize a study of the administration of the State's flexible benefits programs for State employees. (See Legislative Proposal III)

Appeals Process for Local Government Employees Subject to the State Personnel Act

The Commission has found that local government employees covered by the State Personnel Act must undergo a different process than covered State employees, when appealing contested case decisions under the Act. As such, local employees face procedural hurdles that similarly situated State employees do not encounter.

Recommendation #4:

The Commission hereby recommends that the General Assembly amend the State Personnel Act to change the appeals process pertaining to certain types of personnel decisions for local government employees subject to the Act. (See Legislative Proposal IV)

Ongoing Study of the State Personnel System

Economic and management trends coupled with the size of State government's investment in its employee workforce demand a more contemporary approach to managing personnel issues and processes. It is critical to have the benefit of a legislative-related body to assist in reviewing, evaluating, and adjusting the State Personnel System so that it works smoothly and with the desired effects. (See Legislative Proposal V)

Recommendation #5:

The Commission hereby recommends that the General Assembly appropriate funds and establish a commission to continue the study of the State Personnel System.

APPENDIX A

**CHAPTER 754
SENATE BILL 917**

AN ACT TO AUTHORIZE STUDIES BY THE LEGISLATIVE RESEARCH COMMISSION, TO CREATE AND CONTINUE VARIOUS COMMITTEES AND COMMISSIONS, TO MAKE APPROPRIATIONS THEREFOR, TO DIRECT VARIOUS STATE AGENCIES TO STUDY SPECIFIED ISSUES, AND TO MAKE OTHER AMENDMENTS TO THE LAW.

....
PART IV.-----STATE PERSONNEL STUDY COMMISSION

(H.B. 109 - Fitch, S.B. 64 - Sands)

Sec. 4.1. There is created a Study Commission on the State Personnel System to be composed of nine members: three Senators to be appointed by the President Pro Tempore of the Senate, three Representatives to be appointed by the Speaker of the House, and three public members to be appointed by the Governor. The President Pro Tempore of the Senate and the Speaker of the House shall each designate a cochairman from their appointees. Either cochairman may call the first meeting of the Study Commission. Vacancies shall be filled in the same manner as the original appointments were made.

Sec. 4.2. The Study Commission is authorized to study all aspects of the State Personnel System including, but not limited to, the impact of State and local governmental employees' retirement benefits increases, the impact of the exemption from State taxes of State, local, federal, and private retirement benefits, and public employees' day care and medical and dental benefits.

Sec. 4.3. With the prior approval of the Legislative Services Commission, the Legislative Administrative Officer shall assign professional and clerical staff to assist in the work of the Commission. Clerical staff shall be furnished to the Commission through the Offices of the House and Senate Supervisors of Clerks. The expenses of employment of the clerical staff shall be borne by the Commission. With the prior approval of the Legislative Services Commission, the Study Commission may hold its meetings in the State Legislative Building or the Legislative Office Building.

Sec. 4.4. The Study Commission may submit an interim report of its findings and recommendations and the status of its work on or before the first day of the 1992 Regular Session of the 1991 General Assembly. The Study Commission shall submit a final written report of its findings and recommendations on or before the convening of the 1993 Session of the General Assembly. All reports shall be filed with the President Pro Tempore of the Senate and the Speaker of the House of Representatives. Upon filing its final report, the Commission shall terminate.

Sec. 4.5. Members of the Commission shall be paid per diem, subsistence, and travel allowances as follows:

- (1) Commission members who are also members of the General Assembly, at the rate established in G.S. 120-3.1;
- (2) Commission members who are officials or employees of the State or local government agencies, at the rate established in G.S. 138-6;
- (3) All other Commission members, at the rate established in G.S. 138-5.

Sec. 4.6. There is allocated from the funds appropriated to the General Assembly's Legislative Services Commission to the Study Commission on the State Personnel System for its work the sum of \$25,000 for the 1991-92 fiscal year and the sum of \$20,000 for the 1992-93 fiscal year.

....

CHAPTER 761
HOUSE BILL 929

AN ACT TO MAKE TECHNICAL CORRECTIONS AND OTHER
CHANGES TO THE LAW.

....

Sec. 51.2. Section 4.2 of Chapter 754, Session Laws of 1991, The Studies Act of 1991, reads as rewritten:

"Sec. 4.2. The Study Commission is authorized to study all aspects of the State Personnel System including, but not limited to, the impact of State and local governmental employees' retirement benefits increases, the impact of the exemption from State taxes of State, local, federal, and private retirement benefits, and public employees' day care and medical and dental benefits. The Study Commission may study all aspects of the State Personnel System, including the following:

- (1) The impact of State and local governmental employees' retirement benefits increases;
- (2) The impact of the exemption from State taxes of State, local, federal, and private retirement benefits;
- (3) Public employees' day care and medical and dental benefits; and
- (4) Decentralization and related needs of the Office of State Personnel, with a particular focus on the Equal Employment Opportunity function, monitoring of State departments, and training of supervisors and administrators relative to their responsibilities under decentralization."

....

CHAPTER 689
HOUSE BILL 83

AN ACT TO MAKE BASE BUDGET AND EXPANSION BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE APPROPRIATIONS FOR CAPITAL IMPROVEMENTS FOR STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES; TO MAKE APPROPRIATIONS FOR OTHER PURPOSES; TO PROVIDE FOR BUDGET REFORM; AND TO PROVIDE FOR REVENUE RECONCILIATION.

Requested by: Representatives Bowman, N.J. Crawford, Senator Martin of Guilford

-----OFFICE OF STATE PERSONNEL DECENTRALIZATION

Sec. 18. (a) Effective January 1, 1993, the Office of State Personnel shall have decentralized the classification and salary administration functions of all State departments with more than 500 permanent full-time employees, subject to criteria and standards set by the State Personnel Commission. The Commission shall have the authority to suspend decentralization when agencies violate State Personnel Commission criteria and standards.

The Office of State Personnel shall report annually to the Joint Legislative Commission on Governmental operations and to the Fiscal Research Division by December 1 of each year, beginning on December 1, 1991, on its progress towards this decentralization.

(b) The Office of State Personnel shall present its plan for decentralization of the classification and salary administration functions to the State Personnel Study Commission or its successor. The State Personnel Study Commission shall consider those statutory changes as may facilitate decentralization and report its recommendations to the General Assembly by April 1, 1992.

APPENDIX B

**STATE PERSONNEL STUDY COMMISSION
MEMBERSHIP - 1991-1992**

Members:

President Pro Tempore's Appointments

Sen. Joseph E. Johnson, Cochair
P.O. Box 31507
Raleigh, NC 27622
(919) 787-5200

Sen. J. K. Sherron, Jr.
4208 Six Forks Road, Suite 302
Raleigh, NC 27609
(919) 781-8721

Sen. Daniel R. Simpson
P.O. Drawer 1329
Morganton, NC 28655
(704) 437-9744

Speaker's Appointments

Rep. Milton F. Fitch, Jr., Cochair
615 E. Nash Street
Wilson, NC 27893
(919) 291-6500

Rep. Luther R. Jeralds
319 Jasper Street
Fayetteville, NC 28301
(919) 488-3542

Rep. John Wayne Kahl
Route 1, Box 261
Union Grove, NC 28689
(704) 592-9773

Governor's Appointments

Mr. Matt Elmore
505 Kenway Street
Garner, NC 27529
(919)733-5407

Mr. Richard V. Lee
3324 Meadow Bluff Drive
Charlotte, NC 28226
(919)733-7108

Ms. Susan Hutchins
106 Penwood Drive
Cary, NC 27511
(919)733-6062

Staff:

Ms. Phyllis Pickett (919) 733-6660
Ms. Sandra Timmons (919) 733-2578
Mr. Stanley Moore (919) 733-4910

Clerk:

Ms. Blanche Critcher
(919) 733-5651 (O)
(919) 942-6932 (H)

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