

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 1035*
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Short Title: State Employee Compensation.

(Public)

Sponsors: Senators Johnson and Sherron; and Simpson.

Referred to: State Personnel and State Government.

May 28, 1992

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COMPREHENSIVE COMPENSATION SYSTEM FOR STATE EMPLOYEES SUBJECT TO CHAPTER 126 OF THE GENERAL STATUTES AND TO DIRECT THE DISTRIBUTION OF APPROPRIATIONS FOR IMPLEMENTATION OF THIS COMPREHENSIVE COMPENSATION SYSTEM.

The General Assembly of North Carolina enacts:

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

"§ 126-7. ~~Compensation of State employees.~~ Comprehensive Compensation System.

(a) It is the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, salary increases to State employees ~~may be based, in part, on each individual employee's job performance and, in part, on general increases given to all State employees.~~ shall be implemented through the Comprehensive Compensation System based upon the individual performance of each State employee. The Comprehensive Compensation System shall combine salary increases and awards into an interrelated system of compensation that furthers the recruitment, retention, career service, and outstanding performance of State employees.

(a1) ~~General salary increases for State employees shall precede any consideration of a performance pay allocation. Performance pay shall be allocated only when the total allocation for increases equals or exceeds two percent (2%).~~

(a2) For the purpose of this section, unless the context indicates otherwise:

- 1 (1) 'Career growth recognition award' means an annual salary increase
2 awarded to a State employee whose final annual performance appraisal
3 indicates job performance that meets or exceeds management's
4 expectations and performance requirements;
- 5 (2) 'Cost-of-living adjustment' means a general salary increase given to
6 State employees in response to inflation and labor market factors;
- 7 (3) 'Midpoint' means that amount of compensation that represents the
8 mean of the lowest and highest amounts in a State employment salary
9 grade as determined by the State Personnel Commission;
- 10 (4) 'Performance bonus' means a salary increase that is awarded in a lump
11 sum to a State employee whose final annual performance appraisal
12 indicates job performance that exceeds management's expectations and
13 performance requirements.

14 (b) To guide the Governor and the General Assembly in making appropriations
15 ~~to further the compensation policy of the State, fund the Comprehensive Compensation~~
16 System, the State Personnel Commission shall conduct annual compensation surveys.
17 The Commission shall present the results of the compensation survey to the
18 Appropriations Committees of the House and Senate no later than two weeks after the
19 convening of the legislature in odd years and May 1st of even years.

20 (b1) The Comprehensive Compensation System shall consist of the following
21 components: (1) the career growth recognition award, (2) the performance bonus, and
22 (3) the cost-of-living adjustment. The career growth recognition award shall be the
23 primary method by which an employee progresses through his or her salary range and
24 shall be awarded annually to employees who qualify for the award. An employee may
25 receive, within a 12-month period, the career growth recognition award, performance
26 bonus, and cost-of-living adjustment if the employee's job performance equals or
27 exceeds the level of performance set forth in subdivisions (4), (4a), and (4b) of
28 subsection (c). No employee shall be eligible to receive during a 12-month period a
29 performance bonus greater than the maximum amount or less than the minimum amount
30 established by the Commission. Nothing in this section shall affect the system of
31 longevity payments established by the Commission.

32 (c) ~~Performance increases, if awarded, Career growth recognition awards,~~
33 performance bonuses, and cost-of-living adjustments shall be based on annual
34 performance appraisals of all employees conducted by each department, agency, and
35 institution. The State Personnel Commission, under the authority of G.S. 126-4(8),
36 shall adopt policy and regulations for performance appraisal. The policy and
37 regulations shall include the following:

- 38 (1) ~~The performance appraisal system of each department, agency, or~~
39 ~~institution shall be designed and administered to ensure that~~
40 ~~performance increases are distributed fairly and reward only performance~~
41 ~~that exceeds performance requirements. Career growth recognition~~
42 awards, performance bonuses, and cost-of-living adjustments are
43 distributed fairly.

1 (2) ~~To be eligible to distribute its share of the performance increase allocation,~~
2 ~~career growth recognition awards, performance bonuses, and cost-of-~~
3 ~~living adjustments, a department, agency, or institution shall have an~~
4 ~~operative performance appraisal system which has been approved by~~
5 ~~the State Personnel Director Commission. The performance appraisal~~
6 ~~system adopted shall use a rating scale of five levels, with level four or~~
7 ~~better qualifying for performance bonuses, level three or better~~
8 ~~qualifying for career growth recognition awards, and level two or~~
9 ~~better qualifying for cost-of-living adjustments. The performance~~
10 ~~appraisal system adopted shall adhere to modern personnel~~
11 ~~management techniques and practices in common use in the public and~~
12 ~~private sectors. The performance appraisal system adopted shall use a~~
13 ~~rating scale of:~~

14 a. ~~Five levels, with the top two levels qualifying for performance~~
15 ~~increases or~~

16 b. ~~Other than five levels, with the levels qualifying for~~
17 ~~performance increases to be designated by the State Personnel~~
18 ~~Commission, for those job classifications in those employing~~
19 ~~units where a department, agency, or institution demonstrates to~~
20 ~~the State Personnel Commission that some number of levels~~
21 ~~other than five would be appropriate, and the State Personnel~~
22 ~~Commission, after conducting a public hearing, determines that~~
23 ~~a rating scale of other than five levels is more appropriate than~~
24 ~~five levels for a particular job classification within a particular~~
25 ~~employing unit.~~

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

36 (3) The State Personnel Director shall help departments, agencies, and
37 institutions to establish and administer their performance appraisal
38 systems and shall provide initial and ongoing training in performance
39 appraisal and performance system administration.

40 (4) ~~An employee whose performance exceeds performance requirements~~
41 ~~shall receive a performance increase unless the employee's supervisor~~
42 ~~justifies in writing to the employee the decision not to award the~~
43 ~~performance increase. An employee whose performance does not~~
44 ~~exceed performance requirements shall not receive a performance~~

1 ~~increase. Standards for performance and standards for performance~~
2 ~~pay increases may be established for each department, agency, or~~
3 ~~institution. These standards may not set limits so as to preclude an~~
4 ~~employee whose performance exceeds performance requirements from~~
5 ~~consideration for an increase. An employee whose performance is~~
6 ~~rated at or above level four of the rating scale shall be eligible to~~
7 ~~receive, subject to the rules and regulations of the Commission, a~~
8 ~~performance bonus unless the employee's supervisor justifies in~~
9 ~~writing to the employee the decision not to award the performance~~
10 ~~bonus. Other than the Commission, no department, agency, or~~
11 ~~institution shall set limits so as to preclude an employee whose~~
12 ~~performance exceeds management's expectations and performance~~
13 ~~requirements from consideration for a performance bonus.~~

14 (4a) An employee whose performance is rated at or above level three of the
15 rating scale shall receive a career growth recognition award unless the
16 employee's supervisor justifies in writing to the employee the decision
17 not to give the career growth recognition award. If an employee's
18 salary is below the midpoint of the salary range, the employee shall
19 receive a career growth recognition award equal to three percent (3%)
20 of the midpoint of the salary range. If an employee's salary is above
21 the midpoint of the salary range, the employee shall receive a career
22 growth recognition award equal to two percent (2%) of the midpoint of
23 the salary range. In no event shall any award increase an employee's
24 compensation above the maximum of the range. The Commission
25 may provide for fair treatment of employees whose salaries are near
26 the midpoint of their salary ranges. Other than the Commission, no
27 agency, department, or institution shall set limits so as to preclude an
28 employee whose performance meets or exceeds management's
29 expectations and performance requirements from receiving a career
30 growth recognition award.

31 (4b) An employee whose performance is rated at or above level two of the
32 rating scale and who is not involved in the final written stage of the
33 disciplinary procedure shall receive a cost-of-living increase. Other
34 than the Commission, no agency, department, or institution shall set
35 limits or initiate written disciplinary procedures for the purpose of
36 precluding an eligible employee from receiving a cost-of-living
37 adjustment.

38 ~~(5) The State Personnel Director shall set the performance~~
39 ~~increase ranges allowable for levels of performance that exceed~~
40 ~~performance requirements. An employee whose performance~~
41 ~~exceeds expectations shall receive a percentage increase equal to the~~
42 ~~midrange value for his rating, unless the supervisor can justify an~~
43 ~~increase above or below the midrange value within the allowable~~
44 ~~range. The supervisor shall give an employee written justification of~~

1 his decision to award an increase above or below the midrange value
2 when the employee requests written justification. A supervisor's
3 performance appraisal plan, evaluation standards for each employee,
4 and individual employee ratings and recommended performance
5 increase amounts, with justification, shall be reviewed and approved
6 by that supervisor's next higher level supervisor.

7 (5a) If an employee is otherwise eligible for a performance increase and is
8 at the top of (but does not exceed) a pay scale, the employee shall
9 receive a performance increase in the form of a performance bonus.
10 This performance bonus shall be a one-time, lump-sum award paid
11 separately from any other payment to the employee for the year. Such
12 award shall not serve to increase the base pay of such employee. An
13 award of this bonus pursuant to this subdivision does not affect:

14 a. The value of the top of any pay scale; and

15 b. The employee's current salary, which will remain at the top of
16 the pay scale.

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

19 (6) The State Personnel Director may suspend rescind any performance
20 increase bonus or career growth recognition award that does not appear
21 to meet the intent of the provisions of the performance pay appraisal
22 system and require the originating department, agency, or institution to
23 reconsider or justify the increase.

24 (7) An employee who disputes the fairness of his or her performance
25 evaluation appraisal or the sufficiency amount of a performance bonus
26 increase awarded or who believes that he or she was unfairly denied a
27 performance increase bonus or career growth recognition award shall
28 first discuss the problem with his or her supervisor. Appeals of the
29 supervisor's decision shall be made only to the grievance committee or
30 internal performance review board of the department, agency, or
31 institution which shall make a recommendation to the head of the
32 department, agency, or institution for final decision. The State
33 Personnel Director shall help a department, agency, or institution
34 establish an internal performance review board or, if it includes
35 employee members, to use its existing grievance committee to hear
36 performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S.
37 126-22, 126-25, and 126-34, performance pay disputes, including
38 disputes about individual performance appraisals, shall not be
39 considered contested case issues.

40 (7a) Each department, agency, and institution shall establish a performance
41 management and pay advisory committee as part of the performance
42 appraisal system. The purpose of the committee is to ensure that
43 performance pay increases salary increases and awards are made in an
44 equitable manner. The committee shall be responsible for reviewing:

- 1 a. Agency ~~performance pay~~ salary increase and award policies and
2 ~~performance pay plan~~ to determine whether this section and any
3 guidelines promulgated by the ~~Office of State Personnel~~ State
4 Personnel Commission have been adhered to;
- 5 b. Agency training and education programs to determine whether
6 all employees receive appropriate information; and
- 7 c. Performance appraisal ratings within the department, agency, or
8 institution to determine whether an equitable distribution has
9 been made.

10 The committee must have a minimum of five members. The head of
11 each department, agency, and institution shall appoint the
12 members of the committee with equal representation of
13 nonsupervisory, supervisory, and management employees. The
14 committee shall elect its own chair.

15 The performance management and pay advisory committee
16 shall meet at least two times each year. The committee shall
17 submit a written report following each meeting to the head of
18 the department, agency, or institution. The report shall include
19 recommendations for changes and corrections in the
20 administration of the performance management system. The
21 recommendations of the committee shall be advisory only. The
22 head of the department, agency, or institution shall respond to
23 the committee within three months. Copies of the report shall
24 be included in the report to the Office of State Personnel that is
25 required of that agency, department, or institution. Summaries
26 of the report shall be included in the annual reports that are
27 mandated by this subsection.

28 ~~Nothing in subdivision (7a) and each subpart hereof shall be~~
29 ~~construed to obligate the General Assembly to appropriate~~
30 ~~funds to implement the provisions of this subdivision.~~

- 31 (8) The State Personnel Director shall monitor the performance appraisal
32 system and ~~performance increase distribution of each employing unit~~ the
33 distribution of salary increases and awards within each department,
34 agency, and institution. Each department, agency, and institution shall
35 submit to the Director annual reports which shall include data on the
36 demographics of performance ratings, the frequency of evaluations, ~~the~~
37 ~~performance pay increases awarded~~ the distribution of salary increases
38 and awards, and the implementation schedule for ~~performance pay~~
39 ~~increases~~ salary increases and awards. The Director shall analyze the
40 data to ensure that ~~performance increases~~ salary increases and awards
41 are distributed fairly within each department, agency, and institution
42 and across all departments, agencies, and institutions of State
43 government and shall report back to each department, agency, and
44 institution on its appraisal and distribution performance.

- 1 (9) The State Personnel Director shall report annually on the ~~performance~~
2 ~~pay program~~ Comprehensive Compensation System to the Commission.
3 The report shall evaluate the performance of each department, agency,
4 and institution in the administration of its appraisal system and the
5 distribution of ~~performance increases~~ salary increases and awards within
6 each department, agency, and institution and across State government.
7 The report shall include recommendations for improving the
8 performance appraisal system and alleviating inequities. ~~Copies of the~~
9 ~~report shall be sent to the State Auditor.~~ Copies of the report, as adopted
10 by the State Personnel Commission shall be sent to the Governor,
11 Lieutenant Governor, President Pro Tempore of the Senate, Speaker of
12 the House of Representatives, the standing personnel committees of
13 the House and the Senate, and the State Auditor. The State Personnel
14 Director shall recommend to the General Assembly for its approval
15 sanctions to be levied against departments, agencies, and institutions
16 that have deficient performance appraisal systems or that do not link
17 salary increases and awards to employee job performance. These
18 sanctions may include withholding salary increases and awards from
19 the managers and supervisors of individual employing units of
20 departments, agencies, and institutions in which discrepancies exist.
21 (10) ~~The Commission shall report annually to the Governor, the Lieutenant~~
22 ~~Governor, the President Pro Tempore of the Senate, the Speaker of the~~
23 ~~House of Representatives, and the Standing Personnel Committees of~~
24 ~~the House and the Senate. The Commission report shall include an~~
25 ~~evaluation of the administration of the appraisal system and~~
26 ~~distribution of performance increases by each department, agency, and~~
27 ~~institution. The State Personnel Director shall recommend to the~~
28 ~~General Assembly for its approval sanctions to be levied against~~
29 ~~departments, agencies, and institutions that have deficient appraisal~~
30 ~~systems or that do not link performance increases to performance.~~
31 ~~These sanctions may include withholding performance increases from~~
32 ~~the managers and supervisors of individual employing units of~~
33 ~~departments, agencies, and institutions in which discrepancies exist.~~
34 (d) The provisions of subsections (a), (b), and (c) shall not affect the system of
35 ~~longevity payments established by the State Personnel Commission.~~
36 (e) The Governor and the General Assembly subject to availability of funds shall
37 advance the State's Comprehensive Compensation System by distributing annual
38 appropriations to the Comprehensive Compensation System in the following manner:
39 (1) The career growth recognition award component shall be funded each
40 year at the level required for full implementation as provided by this
41 section.
42 (2) To the extent that expansion funds are available, the Comprehensive
43 Compensation System shall receive an additional appropriation to fund
44 performance bonuses. The level of the performance bonus allocation

1 shall not exceed two percent (2%) of the total employee payroll. Any
2 remaining available funds shall next be allocated to provide for cost-
3 of-living adjustments to employees."

4 Sec. 2. G.S. 126-4 reads as rewritten:

5 **"§ 126-4. (Effective until July 1, 1993) Powers and duties of State Personnel**
6 **Commission.**

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

- 9 (1) Position classification plans which shall provide for the classification
10 and reclassification of all positions subject to this Chapter according to
11 the duties and responsibilities of the positions.
- 12 (2) Compensation plans which shall provide for minimum, maximum, and
13 intermediate rates of pay for all employees subject to the provisions of
14 this Chapter.
- 15 (3) For each class of positions, reasonable qualifications as to education,
16 experience, specialized training, licenses, certifications, and other job-
17 related requirements pertinent to the work to be performed.
- 18 (4) Recruitment programs designed to promote public employment,
19 communicate current hiring activities within State government, and
20 attract a sufficient flow of internal and external applicants; and
21 determine the relative fitness of applicants for the respective positions.
- 22 (5) Hours and days of work, holidays, vacation, sick leave, and other
23 matters pertaining to the conditions of employment. The legal public
24 holidays established by the Commission as paid holidays for State
25 employees shall include Martin Luther King, Jr.'s, Birthday and
26 Veterans Day. The Commission shall not provide for more than 11
27 paid holidays per year except that in those years in which Christmas
28 Day falls on a Tuesday, Wednesday, or Thursday, the Commission
29 shall not provide for more than 12 paid holidays.
- 30 (6) The appointment, promotion, transfer, demotion and suspension of
31 employees.
- 32 (7) Cooperation with the Department of Public Education, the University
33 of North Carolina, and the Community Colleges of the State and other
34 appropriate resources in developing programs in, including but not
35 limited to, management and supervisory skills, performance
36 evaluation, specialized employee skills, accident prevention, equal
37 employment opportunity awareness, and customer service; and to
38 maintain an accredited Certified Public Manager program.
- 39 (7a) The separation of employees.
- 40 (8) ~~The evaluation of employee performance, the granting of performance~~
41 ~~salary increases, and a~~ A program of meritorious service awards.
- 42 (9) The investigation of complaints and the issuing of such binding
43 corrective orders or such other appropriate action concerning
44 employment, promotion, demotion, transfer, discharge, reinstatement,

1 and any other issue defined as a contested case issue by this Chapter in
2 all cases as the Commission shall find justified.

3 (10) Programs of safety, health, employee assistance, productivity
4 incentives, equal opportunity and such other programs and procedures
5 as may be necessary to promote efficiency of administration and
6 provide for a fair and modern system of personnel administration. This
7 subdivision may not be construed to authorize the establishment of an
8 incentive pay program.

9 (11) In cases where the Commission finds discrimination or orders
10 reinstatement or back pay whether (i) heard by the Commission or (ii)
11 appealed for limited review after settlement or (iii) resolved at the
12 agency level, the assessment of reasonable attorneys' fees and
13 witnesses' fees against the State agency involved.

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

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

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

17 (15) Recognition of State employees, public personnel management, and
18 management excellence.

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

20 Such policies and rules shall not limit the power of any elected or appointed
21 department head, in his discretion and upon his determination that it is in the best
22 interest of the Department, to transfer, demote, or separate a State

23 (1) Employee in a grade 60 or lower position who has not been
24 continuously employed by the State of North Carolina for the
25 immediate 12 preceding months;

26 (2) Employee in a grade 61 to grade 65 position who has not been
27 continuously employed by the State of North Carolina for the
28 immediate 36 preceding months;

29 (3) Employee in a grade 66 to grade 70 position who has not been
30 continuously employed by the State of North Carolina for the
31 immediate 48 preceding months; or

32 (4) Employee in a grade 71 or higher position who has not been
33 continuously employed by the State of North Carolina for the
34 immediate 60 preceding months.”

35 Sec. 3. Notwithstanding any other provisions of this Act, no future General
36 Assembly shall be obligated to appropriate funds pursuant to this Act.

37 Sec. 4. This act is effective upon ratification, and applies to any
38 compensation earned on or after July 1, 1993.