

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 369

Government Performance Audit Select Committee Substitute Adopted 4/29/93

Short Title: GPAC/Civilianization.

(Public)

Sponsors:

Referred to: Appropriations.

February 24, 1993

A BILL TO BE ENTITLED

1 AN ACT TO IMPLEMENT RECOMMENDATIONS OF THE GOVERNMENT
2 PERFORMANCE AUDIT COMMITTEE REGARDING THE CIVILIANIZATION
3 OF CERTAIN JOB CLASSES OF STATE LAW ENFORCEMENT OFFICERS
4 AND RESTRICTING THE USE OF STATE FUNDS TO PAY LAW
5 ENFORCEMENT OFFICER BENEFITS TO STATE EMPLOYEES WHO DO
6 NOT REQUIRE LAW ENFORCEMENT OFFICER STATUS.
7

8 Whereas, sworn law enforcement officers fill State government positions in
9 which the duties and responsibilities of the positions do not necessitate that the
10 employees be sworn law enforcement officers; and

11 Whereas, the Americans with Disabilities Act imposes a continuing
12 affirmative obligation on all employers to evaluate which job functions are essential to
13 the performance of the job; and

14 Whereas, the unnecessary use of sworn law enforcement officers in these
15 positions imposes additional employee compensation expenses on the State; Now,
16 therefore,

17 The General Assembly of North Carolina enacts:

18 Section 1. Status as a sworn law enforcement officer is not essential to the
19 performance of duties and responsibilities of positions within the job classifications
20 listed in this section. As each position within a listed classification becomes vacant, it
21 shall be filled by a person other than a sworn law enforcement officer. The
22 classifications subject to the requirements of this section are:

- 1 (1) Security Officers – Department of Cultural Resources, Archives
- 2 Division
- 3 (2) Security Officers – Department of Cultural Resources, Arts Division
- 4 (3) Historic Site Manager
- 5 (4) Scales Mechanic
- 6 (5) Administrative Assistant
- 7 (6) Parking Control Supervisor
- 8 (7) Locksmith II.

9 Sec. 2. (a) The Office of State Personnel shall review all job positions and
10 classifications filled or required to be filled by sworn law enforcement officers. This
11 section shall not apply to positions within classifications listed in Section 1 of this act
12 nor to the General Assembly Police.

13 (b) The Office of State Personnel shall, in reviewing each position, determine
14 whether the position meets the following criteria:

- 15 (1) The position necessitates the power of arrest to perform the essential
16 duties of his or her position.
- 17 (2) The position necessitates that the employee be armed to carry out the
18 essential functions of the position.
- 19 (3) The law enforcement function is essential to the performance of the
20 position's primary duties.
- 21 (4) The position is required to be filled by an employee certified by the
22 Criminal Justice Education and Training Standards Commission.

23 (c) The Office of State Personnel shall submit to the State Personnel Commission
24 (" Commission") no later than December 31, 1993, the name of each position that fails
25 to meet all four criteria and other pertinent information requested by the Commission.
26 The Commission shall, at its first regularly scheduled meeting following the submission
27 of the list, review the submission and shall implement revised classifications that
28 prohibit the use of sworn law enforcement officers in the positions that it determines fail
29 to meet the criteria.

30 (d) If the Commission determines that some of the functions performed within a
31 position require the use of a sworn law enforcement officer, and there are other similar
32 positions within the affected agency, the law enforcement function of these positions
33 shall be separated from the other functions of these positions in order to reduce the
34 number of sworn law enforcement officers performing non-law enforcement functions.
35 This subsection shall not apply to the extent that:

- 36 (1) The agency would be left with less than one full-time position for
37 either the law enforcement function or the non-law enforcement
38 function; or
- 39 (2) The position is not or has not become vacant as of the thirtieth day
40 following the Commission's classification revision for the position.

41 Sec. 3. The Commission shall complete the classification revisions no later
42 than March 31, 1994, and shall submit to the General Assembly a report of its work.
43 Classification revisions required under this act shall become effective no later than April

1 1, 1994, provided that the revision shall apply to a position only if it is vacant or
2 becomes vacant on or after the thirtieth day following the Commission's revision.

3 Sec. 3.1. The Commission may also examine positions not currently
4 requiring a sworn law enforcement officer to determine whether the positions should be
5 filled by individuals who are sworn law enforcement officers.

6 Sec. 4. The Legislative Services Commission shall evaluate the need for
7 sworn law enforcement officers on the General Assembly police force, using the criteria
8 required under Section 2 of this act for other law enforcement officers.

9 Sec. 5. G.S. 135-1(11b) reads as rewritten:

10 "(11b) 'Law-Enforcement Officer' means a full-time paid employee of an
11 employer who ~~is actively serving in a position with assigned primary~~
12 ~~duties and responsibilities for prevention and detection of crime or the~~
13 ~~general enforcement of the criminal laws of the State of North~~
14 ~~Carolina or serving civil processes, and who possesses the power of~~
15 ~~arrest by virtue of an oath administered under the authority of the~~
16 ~~State. requires the power of arrest to perform the essential duties of his~~
17 ~~or her position, must be armed to carry out the essential functions of~~
18 ~~his or her position, and is required to be certified by the Criminal~~
19 ~~Justice Education and Training Standards Commission, and as such,~~
20 must attend and pass a core law enforcement curriculum."

21 Sec. 6. State departments, agencies, and institutions shall not use budgeted
22 funds to pay law enforcement officer benefits to persons filling positions that do not
23 require the status of law enforcement officer as a basic requirement of the position.
24 Law enforcement officer benefits shall be paid only to employees who require the
25 power of arrest to perform the essential duties of a position, who must be armed to
26 perform the essential duties of the position, and who are certified by the Criminal
27 Justice Education and Training Standards Commission to be certified. This section
28 applies to:

- 29 (1) Positions listed in Section 1 of this act only if they are vacant on the
30 effective date of this act or become vacant thereafter;
- 31 (2) Positions for which job classifications have been revised by the
32 Commission pursuant to Sections 2 and 3 of this act only if they are
33 vacant on the thirtieth day following the revision or become vacant
34 thereafter;
- 35 (3) Positions listed in Section 4 of this act only in accordance with the
36 determination of the Legislative Services Commission.

37 Sec. 7. This act becomes effective July 1, 1993.