

GENERAL ASSEMBLY OF NORTH CAROLINA

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SENATE BILL 369

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(Public)

Sponsors:

Referred to: Appropriations.

February 24, 1993

A BILL TO BE ENTITLED

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

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

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

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

The General Assembly of North Carolina enacts:

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

- 1 (1) Historic Site Manager
- 2 (2) Scales Mechanic
- 3 (3) Administrative Assistant
- 4 (4) Parking Control Supervisor
- 5 (5) Locksmith II.

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

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

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

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

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

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

38 Sec. 3. The Commission shall complete the classification revisions no later
39 than March 31, 1994, and shall submit to the General Assembly a report of its work.
40 Classification revisions required under this act shall become effective no later than April
41 1, 1994, provided that the revision shall apply to a position only if it is vacant or
42 becomes vacant on or after the thirtieth day following the Commission's revision.

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

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

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

8 "(11b) 'Law-Enforcement Officer' means a full-time paid employee of an
9 employer who ~~is actively serving in a position with assigned primary~~
10 ~~duties and responsibilities for prevention and detection of crime or the~~
11 ~~general enforcement of the criminal laws of the State of North~~
12 ~~Carolina or serving civil processes, and who possesses the power of~~
13 ~~arrest by virtue of an oath administered under the authority of the~~
14 ~~State.~~ requires the power of arrest to perform the essential duties of his
15 or her position, must be armed to carry out the essential functions of
16 his or her position, and is required to be certified by the Criminal
17 Justice Education and Training Standards Commission, and as such,
18 must attend and pass a core law enforcement curriculum."

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

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

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