

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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HOUSE BILL 1310*

Short Title: Exempt Employee Changes.

(Public)

Sponsors: Representatives Gibson; and Wainwright.

Referred to: State Government.

April 12, 2001

A BILL TO BE ENTITLED
AN ACT AMENDING PROVISIONS OF THE STATE PERSONNEL ACT
PERTAINING TO THE NUMBER AND THE APPEALS RIGHTS OF CERTAIN
EXEMPT EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-5(c) reads as rewritten:

"(c) Except as to the policies, rules, and plans established by the Commission pursuant to G.S. 126-4(1), 126-4(2), 126-4(3), 126-4(4), 126-4(5), 126-4(6), and 126-7, and except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

- (1) A State employee who is not a career State employee as defined by this Chapter.
- (2) ~~One confidential assistant~~ Two confidential assistants and two confidential secretaries for each elected or appointed department head and one confidential secretary for each chief deputy or chief administrative assistant.
- (3) Employees in exempt policymaking positions designated pursuant to G.S. 126-5(d).
- (4) The chief deputy or chief administrative assistant to the head of each State department who is designated either by statute or by the department head to act for and perform all of the duties of such department head during his absence or incapacity."

SECTION 2. G.S. 126-5(d)(1) reads as rewritten:

"(d)(1) Exempt Positions in Cabinet Department. – The Governor may designate a total of 100 exempt policymaking positions throughout the following departments:

- a. Department of Administration;
- b. Department of Commerce;
- c. Department of Correction;

- 1 d. Department of Crime Control and Public Safety;
2 e. Department of Cultural Resources;
3 f. Department of Health and Human Services;
4 g. Department of Environment and Natural Resources;
5 h. Department of Revenue;
6 i. Department of Transportation; and
7 j. Department of Juvenile Justice and Delinquency Prevention.

8 The Governor may designate exempt managerial positions in a number
9 up to one percent (1%) of the total number of full-time positions in
10 each cabinet department listed above in this sub-subdivision, ~~not to~~
11 ~~exceed~~ or 30 positions in each department, whichever is
12 greater."

13 **SECTION 3.** G.S. 126-5(h) reads as rewritten:

14 "(h) In case of dispute as to whether an employee is subject to the provisions of
15 this Chapter, the dispute shall be resolved as provided in Article 3 of Chapter
16 ~~150B-150B~~, except that there shall be no appeal regarding positions designated as
17 exempt under subdivision (c1)(6), (c1)(7), or (d)(3) of this section."

18 **SECTION 4.** G.S. 126-34.1(c) reads as rewritten:

19 "(c) In the case of a dispute as to whether a State employee's position is properly
20 exempted from the State Personnel Act under G.S. 126-5, the employee may file in the
21 Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of
22 the General ~~Statutes~~-Statutes, except that there shall be no appeal regarding positions
23 designated as exempt under G.S. 126-5(c1)(6), 126-5(c1)(7), or 126-5(d)(3)."

24 **SECTION 5.** G.S. 126-14.4 is amended by adding a new subsection to read:

25 "(h) Nothing in this section or in G.S. 126-14.2 shall be construed to allow an
26 employee who has been terminated from an exempt managerial position to grieve the
27 failure to rehire the same employee into the position from which the employee was just
28 terminated on the grounds that there has been a violation of G.S. 126-14.2."

29 **SECTION 6.** This act is effective when it becomes law.