

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1022

Short Title: Fair Pay in State Gov't/Managers Accountable. (Public)

Sponsors: Representatives Ross, B. Allen, Weiss, Coleman (Primary Sponsors);
Farmer-Butterfield, Fisher, Glazier, Martin, and Wainwright.

Referred to: State Personnel.

March 31, 2005

A BILL TO BE ENTITLED
AN ACT ADDRESSING FAIR PAY IN STATE GOVERNMENT EMPLOYMENT
BY REQUIRING MANAGEMENT ACCOUNTABILITY FOR PAY-RELATED
PERSONNEL DECISIONS.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-7.3. Fair pay; management accountability.

(a) It is the intent of the General Assembly to address any pay disparities in wages in similar jobs held by State employees. In order to lessen any disparities, decisions regarding salary administration adjustments shall include consideration of wage equity between men and women and employees of different races in similar jobs along with performance, market differences between similar jobs, and availability of funds. If any salary adjustment decision could potentially create a pay inequity, the reasons for granting the adjustment shall be justified in writing. Managers shall document any pay disparities and shall be encouraged to take steps that would lessen disparities.

(b) The head of each State agency, department, and institution and The University of North Carolina shall act in conformity with fair pay laws and policies when making personnel decisions relating to the compensation of State employees. Managers and supervisors shall receive training on fair pay laws and policies and race and gender-related compensation issues. The human resources office shall ensure that management is responsible for adhering to fair pay laws and policies. Managers shall be evaluated based on their compliance with fair pay laws and policies. The failure of management to abide by fair pay laws and policies may result in the reduction of salary reserves allocated by the Office of State Budget and Management.

1 (c) For the purposes of this section, "similar jobs" are jobs whose composite
2 competencies, training, experience, skill, responsibility, market comparisons, and
3 working conditions are equivalent."

4 **SECTION 2.** G.S. 126-4 reads as rewritten:

5 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 8 (1) Position classification plans which shall provide for the classification
9 and reclassification of all positions subject to this Chapter according to
10 the duties and responsibilities of the positions.
- 11 (2) Compensation plans which shall provide for minimum, maximum, and
12 intermediate rates of pay for all employees subject to the provisions of
13 this Chapter.
- 14 (3) For each class of positions, reasonable qualifications as to education,
15 experience, specialized training, licenses, certifications, and other
16 job-related requirements pertinent to the work to be performed.
- 17 (4) Recruitment programs designed to promote public employment,
18 communicate current hiring activities within State government, and
19 attract a sufficient flow of internal and external applicants; and
20 determine the relative fitness of applicants for the respective positions.
- 21 (5) Hours and days of work, holidays, vacation, sick leave, and other
22 matters pertaining to the conditions of employment. The legal public
23 holidays established by the Commission as paid holidays for State
24 employees shall include Martin Luther King, Jr.'s Birthday and
25 Veterans Day. The Commission shall not provide for more than 11
26 paid holidays per year except that in those years in which Christmas
27 Day falls on a Tuesday, Wednesday, or Thursday, the Commission
28 shall not provide for more than 12 paid holidays.
- 29 (5a) In years in which New Year's Day falls on Saturday, the Commission
30 may designate December 31 of the previous calendar year as the New
31 Year's holiday, provided that the number of holidays for the previous
32 calendar year does not exceed 12 and the number of holidays for the
33 current year does not exceed 10. When New Year's Day falls on either
34 Saturday or Sunday, the constituent institutions of The University of
35 North Carolina that adopt alternative dates to recognize the legal
36 public holidays set forth in subdivision (5) of this section and
37 established by the Commission may designate, in accordance with the
38 rules of the Commission and the requirements of this subdivision,
39 December 31 of the previous calendar year as the New Year's holiday.
- 40 (6) The appointment, promotion, transfer, demotion and suspension of
41 employees.
- 42 (7) Cooperation with the State Board of Education, the Department of
43 Public Instruction, the University of North Carolina, and the
44 Community Colleges of the State and other appropriate resources in

1 developing programs in, including but not limited to, management and
2 supervisory skills, performance evaluation, specialized employee
3 skills, accident prevention, equal employment opportunity awareness,
4 including gender and race-related compensation issues, and customer
5 service; and to maintain an accredited Certified Public Manager
6 program.

7 (7a) The separation of employees.

8 (8) A program of meritorious service awards.

9 (9) The investigation of complaints and the issuing of such binding
10 corrective orders or such other appropriate action concerning
11 employment, promotion, demotion, transfer, discharge, reinstatement,
12 and any other issue defined as a contested case issue by this Chapter in
13 all cases as the Commission shall find justified.

14 (10) Programs of employee assistance, productivity incentives, equal
15 opportunity, safety and health as required by Part 1 of Article 63 of
16 Chapter 143 of the General Statutes, and such other programs and
17 procedures as may be necessary to promote efficiency of
18 administration and provide for a fair and modern system of personnel
19 administration. This subdivision may not be construed to authorize the
20 establishment of an incentive pay program.

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

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

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

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

29 (15) Recognition of State employees, public personnel management, and
30 management excellence.

31 (16) The implementation of ~~G.S. 126-7~~ G.S. 126-7 and G.S. 126-7.3.

32 (17) An alternative dispute resolution procedure.

33 (18) Delegation of authority for approval of personnel actions through
34 decentralization agreements with the heads of State agencies,
35 departments, and institutions.

36 a. Decentralization agreements with Executive Branch agencies
37 shall require a person, designated in the agency, to be
38 accountable to the State Personnel Director for the compliance
39 of all personnel actions taken pursuant to the delegated
40 authority of the agency. Such agreements shall specify the
41 required rules and standards for agency personnel
42 administration.

43 b. The State Personnel Director shall have the authority to take
44 appropriate corrective actions including adjusting employee

1 salaries and changing employee classifications that are not in
2 compliance with policy or standards and to suspend
3 decentralization agreements for agency noncompliance with the
4 required personnel administration standards.

5 (19) Conduct studies to address any pay disparities for equivalent
6 jobs in State government, including wage disparities between
7 men and women, review of the minimum annual salary for State
8 employees, and review of any other pay disparities in State
9 government employment resulting from compensation policies,
10 classification, and job categories.

11 The policies and rules of the Commission shall not limit the power of any elected or
12 appointed department head, in the department head's discretion and upon the department
13 head's determination that it is in the best interest of the Department, to transfer, demote,
14 or separate a State employee who is not a career State employee as defined by this
15 Chapter."

16 **SECTION 3.** G.S. 126-7 is amended by adding a new subsection to read:

17 "(b2) The annual compensation report shall include any disparities in various
18 occupational groups and make recommendations to correct those disparities."

19 **SECTION 4.** G.S. 126-16 reads as rewritten:

20 "**§ 126-16. Equal opportunity for employment and compensation by State**
21 **departments and agencies and local political subdivisions.**

22 (a) All State departments and agencies and all local political subdivisions of
23 North Carolina shall give equal opportunity for employment and compensation, without
24 regard to race, religion, color, creed, national origin, sex, age, or handicapping condition
25 as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age,
26 sex or physical requirements constitute bona fide occupational qualifications necessary
27 to proper and efficient administration. This section with respect to equal opportunity as
28 to age shall be limited to individuals who are at least 40 years of age.

29 (b) Each State agency, department, and institution and The University of North
30 Carolina shall strive for diversity in all occupational categories, take positive
31 approaches, and implement best personnel practices to ensure equal opportunity,
32 prevent discrimination, promote fairness, and to support an inclusive environment."

33 **SECTION 5.** This act is effective when it becomes law.