

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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HOUSE BILL 703

Short Title: Severance Pay Changes.

(Public)

Sponsors: Representative Crawford.

Referred to: State Personnel.

March 17, 2005

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE SEVERANCE PAY AND REDUCTION IN FORCE
3 PROVISIONS OF THE STATE PERSONNEL ACT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 126-7.1 reads as rewritten:

6 "**§ 126-7.1. Posting requirement; State employees receive priority consideration;**
7 **reduction-in-force rights; Work First hiring.**

8 (a) All vacancies for which any State agency, department, or institution openly
9 recruit shall be posted within at least the following:

- 10 (1) The personnel office of the agency, department, or institution having
11 the vacancy; and
12 (2) The particular work unit of the agency, department, or institution
13 having the vacancy

14 in a location readily accessible to employees. If the decision is made, initially or at any
15 time while the vacancy remains open, to receive applicants from outside the recruiting
16 agency, department, or institution, the vacancy shall be listed with the Office of State
17 Personnel for the purpose of informing current State employees of such vacancy. The
18 State agency, department, or institution may not receive approval from the Office of
19 State Personnel to fill a job vacancy if the agency, department, or institution cannot
20 prove to the satisfaction of the Office of State Personnel that it complied with these
21 posting requirements. The agency, department, or institution which hires any person in
22 violation of these posting requirements shall pay such person when employment is
23 discontinued as a result of such violation for the work performed during the period of
24 time between his initial employment and separation.

25 (a1) State employees to be affected by a reduction in force shall be notified of the
26 reduction in force as soon as practicable, and in any event, no less than 30 days prior to
27 the effective date of the reduction in force.

28 ~~(a2) The State Personnel Commission shall adopt rules to provide that priority~~
29 ~~consideration for State employees separated from State employment as the result of~~

1 ~~reductions in force is to enable a State employee's return to career service at a salary~~
2 ~~grade and salary rate equal to that held in the most recent position. The State Personnel~~
3 ~~Commission shall provide that a State employee who:~~

4 (1) ~~Accepts a position at the same salary grade shall be paid at the same~~
5 ~~salary rate as the employee's previous position.~~

6 (2) ~~Accepts a position at a lower salary grade than the employee's~~
7 ~~previous position shall be paid at the same rate as the previous position~~
8 ~~unless the salary rate exceeds the maximum of the new salary grade.~~
9 ~~When the salary rate exceeds the maximum of the salary grade, the~~
10 ~~employee's new salary rate shall be reduced to the maximum of the~~
11 ~~new salary grade.~~

12 (b) ~~Subsection (a) of this section does not apply to vacancies which must be~~
13 ~~filled immediately to prevent work stoppage or the protection of the public health,~~
14 ~~safety, or security.~~

15 (c) ~~If a State employee subject to this section:~~

16 (1) ~~Applies for another position of State employment that would constitute~~
17 ~~a promotion and;~~

18 (2) ~~Has substantially equal qualifications as an applicant who is not a State~~
19 ~~employee~~

20 ~~then the State employee shall receive priority consideration over the applicant who is~~
21 ~~not a State employee. This priority consideration shall not apply when the only~~
22 ~~applicants considered for the vacancy are current State employees.~~

23 ~~(c1) If a State employee who has been separated due to reduction in force or who~~
24 ~~has been given notice of imminent separation due to reduction in force:~~

25 (1) ~~Applies for another position of State employment equal to or lower in~~
26 ~~salary grade than the position held by the employee at the time of~~
27 ~~notification or separation; and~~

28 (2) ~~Is determined qualified for that position~~

29 ~~then within all State agencies, the State employee shall receive priority consideration~~
30 ~~over all other applicants but shall receive equal consideration with other applicants who~~
31 ~~are current State employees not affected by the reduction in force. This priority shall~~
32 ~~remain in effect for a period of 12 months from the date the employee receives~~
33 ~~notification of separation by reduction in force. State employees separated due to~~
34 ~~reduction in force shall receive higher priority than other applicants with employment or~~
35 ~~reemployment priorities, except that the reemployment priority created by~~
36 ~~G.S. 126-5(e)(1) shall be considered as equal. The reduction in force priority created by~~
37 ~~this subsection shall be administered in accordance with rules promulgated by the State~~
38 ~~Personnel Commission.~~

39 (c2) ~~If the applicants for reemployment for a position include current State~~
40 ~~employees, a State employee with more than 10 years of service shall receive priority~~
41 ~~consideration over a State employee having less than 10 years of service in the same or~~
42 ~~related position classification. This reemployment priority shall be given by all State~~
43 ~~departments, agencies, and institutions with regard to positions subject to this Chapter.~~

1 (d) "Qualifications" within the meaning of subsection (c) of this section shall
2 consist of:

- 3 (1) Training or education;
- 4 (2) Years of experience; and
- 5 (3) Other skills, knowledge, and abilities that bear a reasonable functional
6 relationship to the abilities and skills required in the job vacancy
7 applied for.

8 (e) Each State agency, department, and institution is encouraged to hire into State
9 government employment qualified applicants who are current or former Work First
10 Program participants.

11 (f) Employees with career status as defined by this Chapter who are separated
12 through a reduction in force shall be eligible for severance pay based on rules adopted
13 by the State Personnel Commission."

14 **SECTION 2.** This act is effective when it becomes law.