

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

4

HOUSE BILL 834
Committee Substitute Favorable 5/9/13
Committee Substitute #2 Favorable 5/14/13
Senate Pensions & Retirement and Aging Committee Substitute Adopted 6/25/13

Short Title: Modern State Human Resources Management/RTR. (Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT ENHANCING THE EFFECTIVENESS AND EFFICIENCY OF STATE
3 GOVERNMENT BY MODERNIZING THE STATE'S SYSTEM OF HUMAN
4 RESOURCES MANAGEMENT AND BY PROVIDING FLEXIBILITY FOR
5 EXECUTIVE BRANCH REORGANIZATION AND RESTRUCTURING.

6 The General Assembly of North Carolina enacts:

7
8 **PART I. ORGANIZATIONAL AND ADMINISTRATIVE CHANGES**

9 **SECTION 1.1.** G.S. 126-3(a) reads as rewritten:

10 "(a) There is hereby established the Office of State Personnel (hereinafter referred to as
11 'the Office') which shall be placed for organizational purposes within the ~~Department of~~
12 ~~Administration—Office of the Governor.~~ Notwithstanding the provisions of North Carolina
13 State government reorganization as of January 1, 1975, and specifically notwithstanding the
14 provisions of Chapter 864 of the 1971 North Carolina Session Laws, Chapter 143A of the
15 General Statutes, the Office of State Personnel shall exercise all of its statutory powers in this
16 ~~Chapter independent of control by the Secretary of Administration and Chapter~~, which shall be
17 under the administration and supervision of a State Personnel Director (hereinafter referred to
18 as 'the Director') appointed by the Governor and subject to the supervision of the Commission
19 for purposes of this Chapter. The salary of the Director shall be fixed by the Governor. The
20 Director shall serve at the pleasure of the Governor."

21 **SECTION 1.2.** G.S. 126-3(b)(8) reads as rewritten:

22 "(8) Developing criteria and standards to measure the level of compliance or
23 noncompliance with established Commission policies, rules, procedures,
24 criteria, and standards in agencies, departments, and institutions to which
25 authority has been delegated for classification, salary ~~administration~~
26 administration, performance management, development, evaluation, and
27 other decentralized programs, and determining through routine monitoring
28 and periodic review process, that agencies, departments, and institutions are
29 in compliance or noncompliance with established Commission policies,
30 rules, procedures, criteria, and standards."

31 **SECTION 1.3.** G.S. 126-4(5) reads as rewritten:

32 **"§ 126-4. Powers and duties of State Personnel Commission.**

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



1 ...
 2 (5) Hours and days of work, holidays, vacation, sick leave, and other matters
 3 pertaining to the conditions of employment. The legal public holidays
 4 established by the Commission as paid holidays for State employees shall
 5 include Martin Luther King, Jr.'s Birthday and Veterans Day. The
 6 Commission shall not provide for more than ~~11~~12 paid holidays per year
 7 ~~except that in those years in which Christmas Day falls on a Tuesday,~~
 8 ~~Wednesday, or Thursday, the Commission shall not provide for more than~~
 9 ~~12 paid holidays year, with three paid holidays being given for Christmas."~~

10 **SECTION 1.4.** This Part is effective when it becomes law.

11
 12 **PART II. STATE PERSONNEL COMMISSION CHANGES**

13 **SECTION 2.1.** G.S. 126-2 reads as rewritten:

14 **"§ 126-2. State Personnel Commission.**

15 (a) There is hereby established the State Personnel Commission (hereinafter referred to
 16 as "the Commission").

17 (b) ~~The Commission shall consist of nine members, appointed as follows:~~

18 (1) ~~Two members shall be attorneys licensed to practice law in North Carolina~~
 19 ~~appointed by the General Assembly, one of whom shall be appointed upon~~
 20 ~~the recommendation of the Speaker of the House of Representatives, and one~~
 21 ~~of whom shall be appointed upon the recommendation of the President Pro~~
 22 ~~Tempore of the Senate.~~

23 ~~The initial two attorney members appointed under this subdivision shall~~
 24 ~~serve terms expiring June 30, 2004; the terms of subsequent appointees shall~~
 25 ~~be six years.~~

26 (2) ~~Two persons from private business or industry appointed by the Governor,~~
 27 ~~both of whom shall have a working knowledge of, or practical experience in,~~
 28 ~~human resources management. The initial members appointed under this~~
 29 ~~subdivision shall serve terms expiring June 30, 2003; the terms of~~
 30 ~~subsequent appointees shall be six years.~~

31 (3) ~~Two State employees subject to the State Personnel Act serving in~~
 32 ~~nonexempt positions, appointed by the Governor, including one of whom is~~
 33 ~~a veteran of the Armed Forces of the United States appointed upon the~~
 34 ~~nomination of the Veterans' Affairs Commission. One employee shall serve~~
 35 ~~in a State government position having supervisory duties, and one employee~~
 36 ~~shall serve in a nonsupervisory position. Neither employee may be a human~~
 37 ~~resources professional. The Governor shall consider nominations submitted~~
 38 ~~by the State Employees Association of North Carolina. The initial members~~
 39 ~~appointed under this subdivision shall serve terms expiring June 30, 2001;~~
 40 ~~the terms of subsequent appointees shall be six years.~~

41 (4) ~~Two local government employees subject to the State Personnel Act~~
 42 ~~appointed by the Governor upon recommendation of the North Carolina~~
 43 ~~Association of County Commissioners, one a nonsupervisory local employee~~
 44 ~~and one a supervisory local employee. Neither local government employee~~
 45 ~~may be a human resources professional. The initial members appointed~~
 46 ~~under this subdivision shall serve terms expiring June 30, 2003; the terms of~~
 47 ~~subsequent appointees shall be for six years.~~

48 (5) ~~One member of the public at large appointed by the Governor. The initial~~
 49 ~~member appointed under this subdivision shall serve for a term expiring~~
 50 ~~June 30, 2001; the terms of subsequent appointees shall be for six years.~~

51 (b1) The Commission shall consist of nine members, appointed as follows:

- 1 (1) One member appointed by the General Assembly upon the recommendation
2 of the Speaker of the House of Representatives who shall be an attorney
3 licensed to practice law in North Carolina.
- 4 (2) One member appointed by the General Assembly upon the recommendation
5 of the President Pro Tempore of the Senate who shall be an attorney licensed
6 to practice law in North Carolina.
- 7 (3) One member appointed by the General Assembly upon the recommendation
8 of the Speaker of the House of Representatives who shall be from private
9 business or industry and who shall have a working knowledge of, or
10 practical experience in, human resources management.
- 11 (4) One member appointed by the General Assembly upon the recommendation
12 of the President Pro Tempore of the Senate who shall be from private
13 business or industry and who shall have a working knowledge of, or
14 practical experience in, human resources management.
- 15 (5) One member who is a veteran of the Armed Forces of the United States
16 appointed by the Governor upon the nomination of the Veterans Affairs
17 Commission and who is a State employee subject to this Chapter serving in a
18 nonexempt supervisory position. The member may not be a human resources
19 professional.
- 20 (6) One member appointed by the Governor who is a State employee subject to
21 this Chapter serving in a nonexempt nonsupervisory position. The member
22 may not be a human resources professional. The Governor shall consider
23 nominations submitted by the State Employees Association of North
24 Carolina.
- 25 (7) One member appointed by the Governor upon the recommendation of the
26 North Carolina Association of County Commissioners who is a local
27 government employee subject to this Chapter serving in a supervisory
28 position. The member may not be a human resources professional.
- 29 (8) One member appointed by the Governor upon the recommendation of the
30 North Carolina Association of County Commissioners who is a local
31 government employee subject to this Chapter serving in a nonsupervisory
32 position. The member may not be a human resources professional.
- 33 (9) One member of the public at large appointed by the Governor.
- 34 (c) Each member of the Commission shall be appointed for a term of four years.
35 Members of the Commission may serve no more than two consecutive terms. Appointments by
36 the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those
37 appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made
38 by the Governor occurring prior to the expiration of a term shall be filled by appointment for
39 the unexpired term.
- 40 (d) No member of the Commission may serve on a case where there would be a conflict
41 of interest. The appointing authority may at any time remove any Commission member for
42 cause.
- 43 (e) Members of the Commission who are State or local government employees subject
44 to ~~the State Personnel Act~~ at this Chapter shall be entitled to administrative leave without loss of
45 pay for all periods of time required to conduct the business of the Commission.
- 46 (f) ~~Six~~ Five members of the Commission shall constitute a quorum.
- 47 (g) The Governor shall designate one member of the Commission as chair.
- 48 (h) The Commission shall meet quarterly, and at other times at the call of the chair."

49 **SECTION 2.2.** The terms of the two attorney members appointed under
50 G.S. 126-2(b)(1), serving on the Commission on January 1, 2013, shall expire on June 30,
51 2013. The terms of the persons from private business or industry appointed under

1 G.S. 126-2(b)(2), serving on the Commission on January 1, 2013, shall expire on June 30,
2 2014. The terms of the two State employees appointed under G.S. 126-2(b)(3), serving on the
3 Commission on January 1, 2013, shall expire on June 30, 2013. The terms of the two local
4 government employees appointed under G.S. 126-2(b)(4), serving on the Commission on
5 January 1, 2013, shall expire on June 30, 2014. The term of the public at-large member
6 appointed under G.S. 126-2(b)(5), serving on the Commission on January 1, 2013, shall expire
7 June 30, 2013. If the terms of office eliminated in this act have not been set out, then the
8 appointing authorities shall determine by July 1, 2013, which terms to eliminate to achieve the
9 membership totals pursuant to this act. After determining which terms to eliminate, the
10 appointing authority shall notify in writing all the persons and entities required to receive
11 notification pursuant to G.S. 143-47.7.

12 **SECTION 2.3.** This Part is effective when it becomes law.
13

14 **PART III. PROBATIONARY AND CAREER STATE EMPLOYEES**

15 **SECTION 3.1.** G.S. 126-1.1 reads as rewritten:

16 **"§ 126-1.1. Career State employee defined.**

17 (a) For the purposes of this Chapter, unless the context clearly indicates otherwise,
18 "career State employee" means a State employee or an employee of a local entity who is
19 covered by this Chapter pursuant to G.S. 126-5(a)(2) who:

- 20 (1) Is in a permanent ~~position appointment~~ position, and
21 (2) Has been continuously employed by the State of North Carolina or a local
22 entity as provided in G.S. 126-5(a)(2) in a position subject to the State
23 Personnel Act for the immediate 24 preceding months.

24 (b) As used in this Chapter, "probationary State employee" means a State employee
25 who is in a probationary appointment and is exempt from the provisions of the State Personnel
26 Act only because the employee has not been continuously employed by the State for the time
27 period required by subsection (a) of this section."

28 **SECTION 3.2.** G.S. 126-15.1 is repealed.

29 **SECTION 3.3.** This Part is effective when it becomes law.
30

31 **PART IV. EXEMPT POSITION MODIFICATIONS**

32 **SECTION 4.1.** G.S. 126-5(d)(1) reads as rewritten:

- 33 "(d) (1) Exempt Positions in Cabinet Department. – Subject to the provisions of this
34 Chapter, which is known as the State Personnel Act, the Governor may
35 designate a total of ~~4,000~~ 1,500 exempt positions throughout the following
36 ~~departments~~ departments and offices:
- 37 a. Department of Administration.
 - 38 b. Department of Commerce.
 - 39 c. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
40 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
41 2013.
 - 42 d. Department of Public Safety.
 - 43 e. Department of Cultural Resources.
 - 44 f. Department of Health and Human Services.
 - 45 g. Department of Environment and Natural Resources.
 - 46 h. Department of Revenue.
 - 47 i. Department of Transportation.
 - 48 j. Repealed by Session Laws 2012-83, s. 7, effective June 26, 2012,
49 and by Session Laws 2012-142, s. 25.2E(a), effective January 1,
50 2013.
 - 51 k. Office of Information Technology Services.

1 l. Office of State Budget and Management.

2 m. Office of State Personnel.

3 ~~Notwithstanding the provisions of this subdivision or the other requirements of this~~
4 ~~subsection, the Governor may at any time designate up to one percent (1%) of the total number~~
5 ~~of full time positions in the Department of Public Safety, not to exceed 100 positions, as~~
6 ~~exempt managerial positions. Notwithstanding the provisions of this subdivision, or the other~~
7 ~~requirements of this subsection, the Governor may at any time increase by five the number of~~
8 ~~exempt policy making positions at the Department of Public Safety, but at no time shall the~~
9 ~~total number of exempt policy making positions exceed 105."~~

10 **SECTION 4.2.** G.S. 147-33.77(a) reads as rewritten:

11 (a) The State Chief Information Officer may appoint a Chief Deputy Information
12 Officer. The salary of the Chief Deputy Information Officer shall be set by the State Chief
13 Information Officer. The State Chief Information Officer may appoint all employees, including
14 legal counsel, necessary to carry out the powers and duties of the office. These employees shall
15 be subject to the State Personnel Act, except that employees in positions designated as
16 exempt under G.S. 126-5(d)(1) are not subject to the Act, in accordance with the provisions of
17 that section."

18 **SECTION 4.3.** G.S. 126-5(e) is repealed.

19 **SECTION 4.4.** G.S. 126-5(f) is repealed.

20 **SECTION 4.5.** G.S. 126-5(d)(5) reads as rewritten:

21 (d) ...

22 (5) Creation, Transfer, or Reorganization. – The Governor, elected department
23 head, or State Board of Education may designate as exempt a position that is
24 created or transferred to a different department, or is located in a department
25 in which reorganization has occurred, after ~~July 1~~ October 1 of the year in
26 which the oath of office is administered to the Governor. The designation
27 must be made in a letter to the State Personnel Director, the Speaker of the
28 North Carolina House of Representatives, and the President of the North
29 Carolina Senate within 180 days after such position is created, transferred, or
30 in which reorganization has occurred."

31 **SECTION 4.6.** This Part becomes effective June 30, 2013, with the repeal of the
32 provisions in G.S. 126-5(e) and G.S. 126-5(f) applying as to State employees hired on or after
33 that date.

34 **PART V. REDUCTIONS IN FORCE**

35 **SECTION 5.1.** G.S. 126-7.1 reads as rewritten:

36 "**§ 126-7.1. Posting requirement; State employees receive priority consideration;**
37 **reduction-in-force; Work First hiring.**

38 ...

39 (e) If a State employee subject to this section:

40 (1) Applies for another position of State employment that would constitute a
41 promotion; and

42 (2) Has substantially equal qualifications as an applicant who is not a State
43 ~~employee.~~ employee;

44 then the State employee shall receive priority consideration over the applicant who is not a
45 State employee. This priority consideration shall not apply when the only applicants considered
46 for the vacancy are current State employees.

47 (f) If a State employee who has been separated due to reduction in force or who has
48 been given notice of imminent separation due to reduction in force:
49

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

4 (2) Has substantially equal qualifications as any other applicant;
5 then within all State agencies, the State employee who has been notified of or separated due to
6 a reduction in force shall receive priority consideration over all other applicants. This priority
7 shall remain in effect for a period of 12 months from the date the employee receives
8 notification of separation by reduction in force. State employees separated due to reduction in
9 force shall receive higher priority than other applicants with employment or reemployment
10 priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be
11 considered as equal.

12 (f1) If a State employee who has been separated due to reduction in force or who has
13 been given notice of imminent separation due to reduction in force accepts or rejects an offer
14 for a position of State employment that is equal to or higher than the position held or equal to
15 or higher than the salary earned by the employee at the time of separation or notification, then
16 the employee's acceptance or rejection of that offer shall satisfy and terminate the one-time,
17 12-month priority granted by subsection (f) of this section.

18"

19 **SECTION 5.2.** This Part is effective when it becomes law and applies to
20 reductions in force implemented on or after that date.

21 **PART VI. EMPLOYEE GRIEVANCES**

22 **SECTION 6.1.** Article 8 of Chapter 126 of the General Statutes reads as rewritten:

23 "Article 8.

24 "Employee Appeals of Grievances and Disciplinary Action.

25 **§ 126-34.01 Grievance; resolution.**

26 Any State employee having a grievance arising out of or due to the employee's employment
27 shall first discuss the problem or grievance with the employee's supervisor, unless the problem
28 or grievance is with the supervisor. Then the employee shall follow the grievance procedure
29 approved by the State Personnel Commission. The proposed agency final decision shall not be
30 issued nor become final until reviewed and approved by the Office of State Personnel. The
31 agency grievance procedure and Office of State Personnel review shall be completed within 90
32 days from the date the grievance is filed.

33 **§ 126-34.02 Grievance appeal process; grounds.**

34 (a) Once a final agency decision has been issued in accordance with G.S. 126-34.01, an
35 applicant for State employment, a State employee, or former State employee may file a
36 contested case in the Office of Administrative Hearings under Article 3 of Chapter 150B of the
37 General Statutes. The contested case must be filed within 30 days of receipt of the final agency
38 decision. Except for cases of extraordinary cause shown, the Office of Administrative Hearings
39 shall hear and issue a final decision in accordance with G.S. 150B-34 within 180 days from the
40 commencement of the case. In deciding cases under this section, the Office of Administrative
41 Hearings may grant the following relief:

42 (1) Reinstate any employee to the position from which the employee has been
43 removed.

44 (2) Order the employment, promotion, transfer, or salary adjustment of any
45 individual to whom it has been wrongfully denied.

46 (3) Direct other suitable action to correct the abuse which may include the
47 requirement of payment for any loss of salary which has resulted from the
48 improper action of the appointing authority.

49 An aggrieved party in a contested case under this section shall be entitled to judicial review
50 of a final decision by appeal to the Court of Appeals as provided in G.S. 7A-29(a). The
51

1 procedure for the appeal shall be as provided by the rules of appellate procedure. The appeal
2 shall be taken within 30 days of receipt of the written notice of final decision. A notice of
3 appeal shall be filed with the Office of Administrative Hearings and served on all parties to the
4 contested case hearing.

5 (b) The following issues may be heard as contested cases after completion of the
6 agency grievance procedure and the Office of State Personnel review:

7 (1) Discrimination or harassment. – An applicant for State employment, a State
8 employee, or former State employee may allege discrimination or
9 harassment based on race, religion, color, national origin, sex, age,
10 disability, genetic information, or political affiliation if the employee
11 believes that he or she has been discriminated against in his or her
12 application for employment or in the terms and conditions of the employee's
13 employment, or in the termination of his or her employment.

14 (2) Retaliation. – An applicant for State employment, a State employee, or
15 former State employee may allege retaliation for protesting discrimination
16 based on race, religion, color, national origin, sex, age, disability, political
17 affiliation, or genetic information if the employee believes that he or she has
18 been retaliated against in his or her application for employment or in the
19 terms and conditions of the employee's employment, or in the termination of
20 the employee's employment.

21 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
22 may allege that he or she was dismissed, demoted, or suspended for
23 disciplinary reasons without just cause. A dismissal, demotion, or suspension
24 which is not imposed for disciplinary reasons shall not be considered a
25 disciplinary action within the meaning of this section. However, in contested
26 cases conducted pursuant to this section, an employee may appeal an
27 involuntary nondisciplinary separation due to an employee's unavailability in
28 the same fashion as if it were a disciplinary action, but the agency shall only
29 have the burden to prove that the employee was unavailable. In cases of such
30 disciplinary action the employee shall, before the action is taken, be
31 furnished with a statement in writing setting forth the specific acts or
32 omissions that are the reasons for the disciplinary action and the employee's
33 appeal rights. The employee shall be permitted 15 days from the date the
34 statement is delivered to appeal under the agency grievance procedure.
35 However, an employee may be suspended without warning pending the
36 giving of written reasons in order to avoid undue disruption of work, to
37 protect the safety of persons or property, or for other serious reasons.

38 (4) Veteran's preference. – An applicant for State employment or a State
39 employee may allege that he or she was denied veteran's preference in
40 violation of the law.

41 (5) Failure to post or give priority consideration. – An applicant for State
42 employment or a State employee may allege that he or she was denied hiring
43 or promotion because a position was not posted in accordance with this
44 Chapter or because he or she was denied hiring or promotion as a result of a
45 failure to give priority consideration for promotion or reemployment as
46 required by G.S. 126-7.1.

47 (6) Whistleblower. – A whistleblower grievance as provided for in this Chapter.

48 (c) Any issue for which an appeal to the Office of Administrative Hearings has not been
49 specifically authorized by this section shall not be grounds for a contested case hearing.

1 (d) In contested cases conducted pursuant to this section, the burden of showing that a
2 career State employee was discharged, demoted, or suspended for just cause rests with the
3 employer. In all other contested cases, the burden of proof rests on the employee.

4 (e) The Office of Administrative Hearings may award attorneys' fees to an employee
5 where reinstatement or back pay is ordered or where an employee prevails in a whistleblower
6 grievance. The remedies provided in this subsection in a whistleblower appeal shall be the
7 same as those provided in G.S. 126-87.

8 (f) The Office of Administrative Hearings shall report to the Office of State Personnel
9 and the Joint Legislative Administrative Procedure Oversight Committee on the number of
10 cases filed under this section and on the number of days between filing and closing of each
11 case. The report shall be filed on a semiannual basis.

12 **~~"§ 126-34. Grievance appeal for career State employees.~~**

13 ~~Unless otherwise provided in this Chapter, any career State employee having a grievance~~
14 ~~arising out of or due to the employee's employment and who does not allege unlawful~~
15 ~~harassment or discrimination because of the employee's age, sex, race, color, national origin,~~
16 ~~religion, creed, handicapping condition as defined by G.S. 168A-3, or political affiliation shall~~
17 ~~first discuss the problem or grievance with the employee's supervisor and follow the grievance~~
18 ~~procedure established by the employee's department or agency. Any State employee having a~~
19 ~~grievance arising out of or due to the employee's employment who alleges unlawful harassment~~
20 ~~because of the employee's age, sex, race, color, national origin, religion, creed, or handicapping~~
21 ~~condition as defined by G.S. 168A-3 shall submit a written complaint to the employee's~~
22 ~~department or agency. The department or agency shall have 60 days within which to take~~
23 ~~appropriate remedial action. If the employee is not satisfied with the department or agency's~~
24 ~~response to the complaint, the employee shall have the right to appeal directly to the Office of~~
25 ~~Administrative Hearings.~~

26 **~~"§ 126-34.1. Grounds for contested case under the State Personnel Act defined.~~**

27 (a) ~~A State employee or former State employee may file in the Office of Administrative~~
28 ~~Hearings a contested case under Article 3 of Chapter 150B of the General Statutes only as to~~
29 ~~the following personnel actions or issues:~~

- 30 (1) ~~Dismissal, demotion, or suspension without pay based upon an alleged~~
31 ~~violation of G.S. 126-35, if the employee is a career State employee.~~
- 32 (2) ~~An alleged unlawful State employment practice constituting discrimination,~~
33 ~~as proscribed by G.S. 126-36, including:~~
- 34 a. ~~Denial of promotion, transfer, or training, on account of the~~
35 ~~employee's age, sex, race, color, national origin, religion, creed,~~
36 ~~political affiliation, or handicapping condition as defined by Chapter~~
37 ~~168A of the General Statutes.~~
- 38 b. ~~Demotion, reduction in force, or termination of an employee in~~
39 ~~retaliation for the employee's opposition to alleged discrimination on~~
40 ~~account of the employee's age, sex, race, color, national origin,~~
41 ~~religion, creed, political affiliation, or handicapping condition as~~
42 ~~defined by Chapter 168A of the General Statutes.~~
- 43 (3) ~~Retaliation against an employee, as proscribed by G.S. 126-17, for protesting~~
44 ~~an alleged violation of G.S. 126-16.~~
- 45 (4) ~~Denial of the veteran's preference granted in accordance with Article 13 of~~
46 ~~this Chapter in initial State employment or in connection with a reduction in~~
47 ~~force, for an eligible veteran as defined by G.S. 126-81.~~
- 48 (5) ~~Denial of promotion for failure to post or failure to give priority~~
49 ~~consideration for promotion or reemployment, to a career State employee as~~
50 ~~required by G.S. 126-7.1 and G.S. 126-36.2.~~

- 1 (6) ~~Denial of an employee's request for removal of allegedly inaccurate or~~
2 ~~misleading information from the employee's personnel file as provided by~~
3 ~~G.S. 126-25.~~
- 4 (7) ~~Any retaliatory personnel action that violates G.S. 126-85.~~
- 5 (8) ~~Denial of promotion in violation of G.S. 126-14.2, where an initial~~
6 ~~determination found probable cause to believe there has been a violation of~~
7 ~~G.S. 126-14.2.~~
- 8 (9) ~~Denial of employment in violation of G.S. 126-14.2, where an initial~~
9 ~~determination found probable cause to believe that there has been a violation~~
10 ~~of G.S. 126-14.2.~~
- 11 (10) ~~Harassment in the workplace based upon age, sex, race, color, national~~
12 ~~origin, religion, creed, or handicapping condition, whether the harassment is~~
13 ~~based upon the creation of a hostile work environment or upon a quid pro~~
14 ~~quo.~~
- 15 (11) ~~Violation of any of the following federal statutes as applied to the employee:~~
16 a. ~~The Fair Labor Standards Act, 29 U.S.C. § 201, et seq.~~
17 b. ~~The Age Discrimination in Employment Act, 29 U.S.C. § 621, et seq.~~
18 c. ~~The Family Medical Leave Act, 29 U.S.C. § 2601, et seq.~~
19 d. ~~The Americans with Disabilities Act, 42 U.S.C. § 12101, et seq.~~
- 20 (b) ~~An applicant for initial State employment may file in the Office of Administrative~~
21 ~~Hearings a contested case under Article 3 of Chapter 150B of the General Statutes based upon:~~
- 22 (1) ~~Alleged denial of employment in violation of G.S. 126-16.~~
- 23 (2) ~~Denial of the applicant's request for removal of allegedly inaccurate or~~
24 ~~misleading information from the personnel file as provided by G.S. 126-25.~~
- 25 (3) ~~Denial of equal opportunity for employment and compensation on account~~
26 ~~of the employee's age, sex, race, color, national origin, religion, creed,~~
27 ~~political affiliation, or handicapping condition as defined by Chapter 168A~~
28 ~~of the General Statutes. This subsection with respect to equal opportunity as~~
29 ~~to age shall be limited to persons who are at least 40 years of age. An~~
30 ~~applicant may not, however, file a contested case where political affiliation~~
31 ~~was the reason for the person's nonselection for (i) an exempt policymaking~~
32 ~~position as defined in G.S. 126-5(b)(3), (ii) a chief deputy or chief~~
33 ~~administrative assistant position under G.S. 126-5(c)(4), or (iii) a~~
34 ~~confidential assistant or confidential secretary position under~~
35 ~~G.S. 126-5(c)(2).~~
- 36 (4) ~~Denial of the veteran's preference in initial State employment provided by~~
37 ~~Article 13 of this Chapter, for an eligible veteran as defined by G.S. 126-81.~~
- 38 (5) ~~Denial of employment in violation of G.S. 126-14.2, where an initial~~
39 ~~determination found probable cause to believe that there has been a violation~~
40 ~~of G.S. 126-14.2.~~
- 41 (c) ~~In the case of a dispute as to whether a State employee's position is properly~~
42 ~~exempted from the State Personnel Act under G.S. 126-5, the employee may file in the Office~~
43 ~~of Administrative Hearings a contested case under Article 3 of Chapter 150B of the General~~
44 ~~Statutes.~~
- 45 (d) ~~A State employee or applicant for State employment may file in the Office of~~
46 ~~Administrative Hearings a contested case under Article 3 of Chapter 150B of the General~~
47 ~~Statutes based upon a false accusation regarding, or disciplinary action relating to, the~~
48 ~~employee's alleged violation of G.S. 126-14 or G.S. 126-14.1.~~
- 49 (e) ~~Any issue for which appeal to the Office of Administrative Hearings through the~~
50 ~~filing of a contested case under Article 3 of Chapter 150B of the General Statutes has not been~~

1 specifically authorized by this section shall not be grounds for a contested case under Chapter
2 126.

3 **"§ 126-34.2. Alternative dispute resolution.**

4 In its discretion, the Commission may adopt alternative dispute resolution procedures for
5 the resolution of matters constituting and not constituting grounds for a grievance under this
6 Article. Any matters not constituting grounds for an appeal under G.S. 126-34.02 shall not be
7 heard by the Office of Administrative Hearings as a contested case.

8 (a) ~~Notwithstanding the provisions of Articles 6 and 7 of this Chapter, or the other~~
9 ~~provisions of this Article, with the consent of the parties, a matter for which a State employee, a~~
10 ~~former State employee, or an applicant for State employment has filed a contested case under~~
11 ~~Article 3 of Chapter 150B of the General Statutes may be handled in accordance with~~
12 ~~alternative dispute resolution procedures adopted by the State Personnel Commission.~~

13 (b) ~~In its discretion, the State Personnel Commission may adopt alternative dispute~~
14 ~~resolution procedures for the resolution of matters not constituting grounds for a contested case~~
15 ~~under G.S. 126-34.1.~~

16 (c) ~~Nothing in this section shall be construed to limit the right of any person to file in~~
17 ~~the Office of Administrative Hearings a contested case under Article 3 of Chapter 150B of the~~
18 ~~General Statutes.~~

19 **"§ 126-34.3. Judicial review of fee awards.**

20 With respect to a decision of the Office of Administrative Hearings assessing or refusing to
21 assess reasonable witness fees or a reasonable attorneys' fee, the decision shall be subject to
22 judicial review in accordance with G.S. 126-34.02(a). The reviewing court may reverse or
23 modify the decision of the Office of Administrative Hearings if the decision is unreasonable or
24 the award is inadequate. An employee who obtains a reversal or modification of the Office of
25 Administrative Hearings' decision in an appeal under this section shall be entitled to recover
26 court costs and a reasonable attorneys' fee for representation in connection with the appeal.

27 **"§ 126-35. Just cause; disciplinary actions for State employees.**

28 (a) No career State employee subject to the State Personnel Act shall be discharged,
29 suspended, or demoted for disciplinary reasons, except for just cause. In cases of such
30 disciplinary action, the employee shall, before the action is taken, be furnished with a statement
31 in writing setting forth ~~in numerical order~~ the specific acts or omissions that are the reasons for
32 the disciplinary action and the employee's appeal rights. The employee shall be permitted 15
33 days from the date the statement is delivered to appeal to the head of the ~~department~~ agency
34 through the agency grievance procedure for a final agency decision. However, an employee
35 may be suspended without warning for causes relating to personal conduct detrimental to State
36 service, pending the giving of written reasons, in order to avoid undue disruption of work or to
37 protect the safety of persons or property or for other serious reasons. ~~The employee, if he is not~~
38 ~~satisfied with the final decision of the head of the department, or if he is unable, within a~~
39 ~~reasonable period of time, to obtain a final decision by the head of the department.~~ If the
40 employee is not satisfied with the final agency decision or is unable, within a reasonable period
41 of time, to obtain a final agency decision, the employee may appeal to the Office of
42 Administrative Hearings. Such appeal shall be filed not later than 30 days after receipt of notice
43 of the ~~department head's~~ final agency decision. The State Personnel Commission may adopt,
44 subject to the approval of the Governor, rules that define just cause.

45 (b) ~~Notwithstanding any other provision of this Chapter, a reduction in pay or position~~
46 ~~which is not imposed for disciplinary reasons shall not be considered a disciplinary action~~
47 ~~within the meaning of this Article. Disciplinary actions, for the purpose of this Article, are~~
48 ~~those actions taken in accordance with the disciplinary procedures adopted by the State~~
49 ~~Personnel Commission and specifically based on unsatisfactory job performance, unacceptable~~
50 ~~personal conduct or a combination of the two.~~

1 (c) For the purposes of contested case hearings under Chapter 150B, an involuntary
2 separation (such as a separation due to a reduction in force) shall be treated in the same fashion
3 as if it were a disciplinary action.

4 (d) In contested cases conducted pursuant to Chapter 150B of the General Statutes, the
5 burden of showing that a career State employee subject to the State Personnel Act was
6 discharged, suspended, or demoted for just cause rests with the department or agency
7 employer."

8 **"§ 126-36. Appeal of unlawful State employment practice.**

9 (a) Any State employee or former State employee who has reason to believe that
10 employment, promotion, training, or transfer was denied the employee or that demotion, layoff,
11 transfer, or termination of employment was forced upon the employee in retaliation for
12 opposition to alleged discrimination or because of the employee's age, sex, race, color, national
13 origin, religion, creed, political affiliation, or handicapping condition as defined by
14 G.S. 168A-3 except where specific age, sex or physical requirements constitute a bona fide
15 occupational qualification necessary to proper and efficient administration, shall have the right
16 to appeal directly to the Office of Administrative Hearings.

17 (b) Subject to the requirements of G.S. 126-34, any State employee or former State
18 employee who has reason to believe that the employee has been subjected to any of the
19 following shall have the right to appeal directly to the Office of Administrative Hearings:

20 (1) Harassment in the workplace based upon age, sex, race, color, national
21 origin, religion, creed, or handicapping condition, whether the harassment is
22 based upon the creation of a hostile work environment or upon a quid pro
23 quo.

24 (2) Retaliation for opposition to harassment in the workplace based upon age,
25 sex, race, color, national origin, religion, creed, or handicapping condition,
26 whether the harassment is based upon the creation of a hostile work
27 environment or upon a quid pro quo."

28 **"§ 126-36.1. Appeal to Office of Administrative Hearings by applicant for employment.**

29 Any applicant for State employment who has reason to believe that employment was denied
30 in violation of G.S. 126-16 shall have the right to appeal directly to the Office of
31 Administrative Hearings."

32 **"§ 126-36.2. Appeal to Office of Administrative Hearings by career State employee
33 denied notice of vacancy or priority consideration.**

34 Any career State employee who has reason to believe that he was denied promotion due to
35 the failure of the agency, department, or institution that had a job vacancy to:

36 (1) Post notice of the job vacancy pursuant to G.S. 126-7.1(a) or;

37 (2) Give him priority consideration pursuant to G.S. 126-7.1(e) may appeal
38 directly to the Office of Administrative Hearings.

39 **"§ 126-37. Administrative Law Judge's final decision.**

40 (a) Appeals involving a disciplinary action, alleged discrimination or harassment, and
41 any other contested case arising under this Chapter shall be conducted in the Office of
42 Administrative Hearings as provided in Article 3 of Chapter 150B; provided that no grievance
43 may be appealed unless the employee has complied with G.S. 126-34. The administrative law
44 judge is hereby authorized to reinstate any employee to the position from which the employee
45 has been removed, to order the employment, promotion, transfer, or salary adjustment of any
46 individual to whom it has been wrongfully denied or to direct other suitable action to correct
47 the abuse which may include the requirement of payment for any loss of salary which has
48 resulted from the improperly discriminatory action of the appointing authority.

49 (b) Repealed by 1993 (Reg. Sess., 1994), c. 572, s. 1.

50 (b1) Repealed by Session Laws 2011-398, s. 44, effective January 1, 2012, and
51 applicable to contested cases commenced on or after that date.

1 (b2) The final decision is subject to judicial review pursuant to Article 4 of Chapter 150B
2 of the General Statutes. Appeals in which it is found that discrimination prohibited by Article 6
3 of this Chapter has occurred or in any case where a binding decision is required by applicable
4 federal standards shall be heard as all other appeals.

5 (c) If the local appointing authority is other than a board of county commissioners, the
6 local appointing authority must give the county notice of the appeal taken pursuant to
7 subsection (a) of this section. Notice must be given to the county manager or the chairman of
8 the board of county commissioners by certified mail within 15 days of the receipt of the notice
9 of appeal. The county may intervene in the appeal within 30 days of receipt of the notice. If the
10 action is appealed to superior court the county may intervene in the superior court proceeding
11 even if it has not intervened in the administrative proceeding. The decision of the superior court
12 shall be binding on the county even if the county does not intervene.

13 ~~"§ 126-38. Time limit for appeals.~~

14 Any employee appealing any decision or action shall file a petition for a contested case
15 with the Office of Administrative Hearings as provided in G.S. 150B-23(a) no later than 30
16 days after receipt of notice of the decision or action which triggers the right of appeal.

17 ~~"§ 126-39. Scope of this Article.~~

18 Except for positions subject to competitive service and except for appeals brought under
19 G.S. 126-16, 126-25, and 126-36, this Article applies to all State employees who are career
20 State employees at the time of the act, grievance, or employment practice complained of.

21 ~~"§ 126-40: Repealed by Session Laws 1985, c. 746, s. 16.~~

22 ~~"§ 126-41. Attorney and witness fees.~~

23 The decision of the Commission assessing or refusing to assess reasonable witness fees or a
24 reasonable attorney's fee as provided in G.S. 126-4(11) is a final agency decision appealable
25 under Article 4 of Chapter 150B of the General Statutes. The reviewing court may reverse or
26 modify the decision of the Commission if the decision is unreasonable or the award is
27 inadequate. The reviewing court shall award court costs and a reasonable attorney's fee for
28 representation in connection with the appeal to an employee who obtains a reversal or
29 modification of the Commission's decision in an appeal under this section.

30 ~~"§ 126-42. Reserved for future codification purposes."~~

31 **SECTION 6.2.** G.S. 126-7.2 is repealed.

32 **SECTION 6.3.** G.S. 126-14.1(c) reads as rewritten:

33 "(c) A State employee subject to the Personnel Act, probationary State employee, or
34 temporary State employee, who without probable cause falsely accuses a person of violating
35 this section shall be subject to discipline or change in employment status in accordance with the
36 provisions of ~~G.S. 126-35, 126-37, and 126-38~~G.S. 126-34.02 and may, as otherwise provided
37 by law, be subject to criminal penalties for perjury or civil liability for libel, slander, or
38 malicious prosecution."

39 **SECTION 6.4.** G.S. 7A-29(a) reads as rewritten:

40 "(a) From any final order or decision of the North Carolina Utilities Commission not
41 governed by subsection (b) of this section, the Department of Health and Human Services
42 under G.S. 131E-188(b), the North Carolina Industrial Commission, the North Carolina State
43 Bar under G.S. 84-28, the Property Tax Commission under G.S. 105-290 and G.S. 105-342, the
44 Commissioner of Insurance under G.S. 58-2-80, the State Board of Elections under
45 G.S. 163-127.6, the Office of Administrative Hearings under G.S. 126-34.02, or the Secretary
46 of Environment and Natural Resources under G.S. 104E-6.2 or G.S. 130A-293, appeal as of
47 right lies directly to the Court of Appeals."

48 **SECTION 6.5.** This Part is effective when it becomes law and applies to
49 grievances filed on or after that date.

50
51 **PART VII. OTHER MODERNIZING AND CONFORMING CHANGES**

1 **SECTION 7.1.** G.S. 126-16 reads as rewritten:

2 "**§ 126-16. Equal opportunity for employment and compensation by State departments**
3 **and agencies and local political subdivisions.**

4 All State departments and agencies agencies, departments, and institutions and all local
5 political subdivisions of North Carolina shall give equal opportunity for employment and
6 compensation, without regard to race, religion, color, ~~ereed~~, national origin, sex, age, disability,
7 or genetic information to all persons otherwise qualified.~~or handicapping condition as defined~~
8 ~~in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical~~
9 ~~requirements constitute bona fide occupational qualifications necessary to proper and efficient~~
10 ~~administration. This section with respect to equal opportunity as to age shall be limited to~~
11 ~~individuals who are at least 40 years of age."~~

12 **SECTION 7.2.** G.S. 126-16.1 reads as rewritten:

13 "**§ 126-16.1. Equal employment opportunity training.**

14 Each State agency, department, and institution and The University of North Carolina shall
15 enroll each newly appointed supervisor or manager within one year of appointment in the Equal
16 Employment Opportunity training offered or approved by the Office of State Personnel.

17 ~~Each State agency, each State department, and The University of North Carolina shall:~~

- 18 (1) ~~Enroll each newly appointed supervisor or manager within one year of~~
19 ~~appointment in the Equal Employment Opportunity Institute operated by the~~
20 ~~Division of Equal Opportunity Services of the Office of State Personnel.~~
21 ~~Current managers and supervisors are encouraged to enroll/participate in the~~
22 ~~Institute.~~
23 (2) ~~Be responsible for providing supplies and resource materials for managers~~
24 ~~and supervisors who are enrolled from that department, agency or~~
25 ~~university."~~

26 **SECTION 7.3.** G.S. 126-19 reads as rewritten:

27 "**§ 126-19. Equal employment opportunity plans; reports; maintenance of services by**
28 **State Personnel Director.**

29 (a) Each member of the Council of State under G.S. 143A-11, each of the principal
30 departments enumerated in G.S. 143B-6, The University of North Carolina, the judicial branch,
31 and the legislative branch, shall develop and submit on an annual basis an Equal Employment
32 Opportunity plan which shall include goals and programs that provide positive measures to
33 assure equitable and fair representation of North Carolina's citizens. The plans developed by the
34 judicial branch and by the Legislative Services Office on behalf of the legislative branch shall
35 be submitted to the General Assembly on or before June 1 of each year. All other such plans
36 shall be submitted to the State Personnel Director for review and approval on or before March
37 1, of each year.

38 (b) ~~The State Personnel Commission shall submit a report to the General Assembly~~
39 ~~concerning the status of Equal Employment Opportunity plans and programs for all State~~
40 ~~departments, agencies, universities, which are required by this Chapter to report to the State~~
41 ~~Personnel Director, on or before June 1 of each year. If any plan has been disapproved, the~~
42 ~~report shall contain reasons for disapproval. The status report submitted to the General~~
43 ~~Assembly by the State Personnel Director and the plans submitted to the General Assembly by~~
44 ~~the judicial branch and the Legislative Services Office on behalf of the legislative branch shall~~
45 ~~contain the total number of persons employed in each job category, the race, sex, salary, and~~
46 ~~other demographics relative to persons hired and promoted during the reporting period, analysis~~
47 ~~of the data, and an indication as to which goals were achieved.~~

48 (c) ~~The State Personnel Director shall at least maintain current will provide services of~~
49 ~~Equal Employment Opportunity technical assistance, training, oversight, monitoring,~~
50 ~~evaluation, support programs, and reporting to assure that State government's work force is~~
51 ~~diverse at all occupational levels. These services shall be provided by qualified personnel.~~ at all

1 occupational levels reflect North Carolina's population. To the extent reasonably possible, these
2 services shall be provided by qualified personnel who have continuous experience in the field
3 of Equal Employment Opportunity and affirmative action and who are sensitive to
4 circumstances and experiences of individuals from diverse backgrounds and cultures, and
5 recognize that efficient and effective government requires the talents, skills, and abilities of all
6 available human resources."

7 **SECTION 7.4.** G.S. 126-25 reads as rewritten:

8 "**§ 126-25. Remedies of employee objecting to material in file.**

9 (a) An employee, former ~~employee-employee~~, or applicant for employment who objects
10 to material in ~~his-the employee's~~ file may place in his or her file a written statement relating to
11 the material ~~he-the employee~~ considers to be inaccurate or misleading.

12 (b) An employee, former ~~employee-employee~~, or applicant for employment who objects
13 to material in ~~his-the employee's~~ file because he or she considers it inaccurate or misleading
14 may seek the removal of such material from ~~his-the~~ file in accordance with a grievance
15 procedure established by that department. If the agency determines that material in the
16 employee's file is inaccurate or misleading, the agency shall remove or amend the inaccurate
17 material to ensure that the file is accurate. Nothing in this subsection shall be construed to
18 permit an employee to appeal the contents of a performance appraisal or written disciplinary
19 ~~action.the grievance procedure of that department, including appeal to the State Personnel~~
20 ~~Commission. When a department, division, bureau, commission, or other agency agrees or is~~
21 ~~ordered by the State Personnel Commission or by the General Court of Justice of this State to~~
22 ~~remove inaccurate or misleading material from an employee's file, which information was~~
23 ~~placed in the file by the supervisor or other agent of management, it shall destroy the original~~
24 ~~and all copies of the material removed and may not retain any inaccurate or misleading~~
25 ~~information derived from the material removed."~~

26 **SECTION 7.5.** G.S. 126-6.2 reads as rewritten:

27 "**§ 126-6.2. Reports.**

28 (a) Beginning January 1, 1998, and quarterly thereafter, the head of each State agency,
29 department, or institution employing State employees subject to the State Personnel Act shall
30 report to the Office of State Personnel on the following:

31 (1) The costs associated with the defense or settlement of administrative
32 grievances and lawsuits filed by current or former State employees and
33 applicants for State employment, including the costs of settlements,
34 attorneys' fees, litigation expenses, damages, or awards incurred by the
35 respective State agencies, departments, and institutions. The report shall
36 include an explanation of the fiscal impact of these costs upon the operations
37 of the State agency, department, or institution.

38 (2) Any other human resources functions or actions as may be requested by the
39 Director of the Office of State Personnel in order for the Office to evaluate
40 the efficiency, productivity, and compliance of a State agency, department,
41 or institution with policies including, but not limited to, the compensation of
42 State employees, voluntary shared-leave programs, equal employment
43 opportunity plans and programs, and work options programs.~~The~~
44 ~~modification of position descriptions resulting in changes in position~~
45 ~~qualifications to allow the use of educational, experience, or other~~
46 ~~equivalencies in the hiring or promotion of State employees where such~~
47 ~~equivalencies were not previously used in the position descriptions. The~~
48 ~~report shall include an explanation of the reasons for the changes in the~~
49 ~~position descriptions and the bases for the use of the equivalencies.~~

50 (b) Beginning May 1, 1998, and annually thereafter, the State Personnel Commission
51 shall report to the Joint Legislative Commission on Governmental Operations on the costs

1 associated with the defense or settlement of lawsuits and on the use of position qualification
2 equivalencies, as compiled in accordance with lawsuits, and upon request, on the results of any
3 other reports regarding human resources action or functions pursuant to subsection (a) of this
4 section.

5 ~~(e) Beginning May 1, 1998, and then annually thereafter, the State Personnel~~
6 ~~Commission, through the Office of State Personnel, shall report to the Joint Legislative~~
7 ~~Commission on Governmental Operations on outcomes with respect to State employee hirings,~~
8 ~~promotions, disciplinary actions, and compensation, based upon demographics."~~

9 **SECTION 7.6.** G.S. 126-14.4 is repealed.

10 **SECTION 7.7.** G.S. 126-79 is repealed.

11 **SECTION 7.8.** G.S. 126-8.3(c) reads as rewritten:

12 "(c) The State Personnel Commission, the State Board of Education, and the State Board
13 of Community Colleges ~~Colleges and all State agencies, departments, and institutions~~ shall
14 annually report to the Office of State Personnel on the voluntary shared leave program. For the
15 prior fiscal year, the report shall include the total number of days or hours of vacation leave and
16 sick leave donated and used by voluntary shared leave recipients and the total cost of the
17 vacation leave and sick leave donated and used. ~~The State Personnel Commission, the State~~
18 ~~Board of Education, and the State Board of Community Colleges shall provide a report for each~~
19 ~~fiscal year as required by this section to the Joint Legislative Commission on Governmental~~
20 ~~Operations and to the Fiscal Research Division on or before October 15 each year."~~

21 **SECTION 7.9.(a)** G.S. 126-7(b) is repealed.

22 **SECTION 7.9.(b)** Article 2 of Chapter 126 of the General Statutes is amended by
23 adding a new section to read:

24 **"§ 126-7.3. Annual compensation surveys.**

25 To guide the Governor and the General Assembly in making decisions regarding the
26 compensation of State employees, the Office of State Personnel shall conduct annual
27 compensation surveys. The Commission shall present the results of the compensation survey to
28 the Appropriations Committees of the House of Representatives and the Senate no later than
29 two weeks after the convening of the legislature in odd-numbered years and May 1st of
30 even-numbered years."

31 **SECTION 7.10.** G.S. 126-86 reads as rewritten:

32 **"§ 126-86. Civil actions for injunctive relief or other remedies.**

33 Any State employee injured by a violation of G.S. 126-85 who is not subject to Article 8 of
34 this Chapter may maintain an action in superior court for damages, an injunction, or other
35 remedies provided in this Article against the person or agency who committed the violation
36 within one year after the occurrence of the alleged violation of this Article; provided, however,
37 any claim arising under Article 21 of Chapter 95 of the General Statutes may be maintained
38 pursuant to the provisions of that Article only and may be redressed only by the remedies and
39 relief available under that Article."

40 **SECTION 7.11.** This Part is effective when it becomes law.

41 **PART VIII. REORGANIZATION THROUGH REDUCTION PROGRAM**

42 **SECTION 8.1.** The Office of State Personnel, in conjunction with the Office of
43 State Budget and Management (OSBM), may develop the Reorganization Through Reduction
44 Program (RTR). The RTR shall be one option available for reorganization and restructuring of
45 the departments and offices listed in G.S. 126-5(d)(1), as amended by Section 4.1 of this act.
46 The RTR is authorized to serve as an employee volunteer separation program to accomplish
47 reorganization and restructuring needs in the specified departments and offices through policies
48 approved by the State Personnel Commission (SPC). The SPC policy shall detail the following:

- 49 (1) The approach to be used in identifying the organizational units.
- 50 (2) The process for identifying employees who may volunteer.
- 51

(3) The availability of severance and other related assistance.

SECTION 8.2. Severance and any other payments made pursuant to the implementation of the RTR program will not exceed funds appropriated for that purpose.

SECTION 8.3. This Part is effective when it becomes law and expires June 30, 2014. The Office of State Personnel and the Office of State Budget and Management shall report to the Joint Legislative Commission on Governmental Operations on January 31, 2014, April 30, 2014, and September 1, 2014.

PART IX. RENAMING/STATE HUMAN RESOURCES COMMISSION AND OFFICE OF STATE HUMAN RESOURCES

SECTION 9.1.(a) Chapter 126 of the General Statutes, the State Personnel Act, is hereby renamed and may be cited as the "North Carolina Human Resources Act."

SECTION 9.1.(b) The following entities and positions created by Chapter 126 of the General Statutes are hereby renamed by this act:

- (1) The State Personnel Commission is renamed the "North Carolina Human Resources Commission."
- (2) The Office of State Personnel is renamed the "North Carolina Office of State Human Resources."
- (3) The State Personnel Director is renamed the "Director of the North Carolina Office of State Human Resources."

SECTION 9.1.(c) Modification of References. – The Revisor of Statutes shall delete any references in the General Statutes to the State Personnel Act, State Personnel Commission, the State Personnel Director, and the Office of State Personnel (or any derivatives thereof) and substitute references to the North Carolina Human Resources Act, the State Human Resources Commission, the Director of the Office of State Human Resources, and the Office of Human Resources (or the appropriate derivative thereof) to effectuate the renaming set forth in this section wherever conforming changes are necessary. The affected statutes may include, but are not limited to, the statutes tabulated below:

– Referring to the State Personnel Act:

- | | |
|-------------------|---|
| 1. G.S. 7A-171 | Duty hours, salary, and travel expenses within county. |
| 2. G.S. 7A-751 | Agency head; powers and duties; salaries of Chief Administrative Law Judge and other administrative law judges. |
| 3. G.S. 7A-760 | Number and status of employees; staff assignments; role of State Personnel Commission. |
| 4. G.S. 18C-120 | Selection of the Director; powers and duties. |
| 5. G.S. 18C-173 | Limits on compensation increases. |
| 6. G.S. 58-2-10 | Salary of Commissioner. |
| 7. G.S. 58-71-5 | Commissioner of Insurance to administer Article; rules and regulations; employees; evidence of Commissioner's actions. |
| 8. G.S. 58-86-15 | Director. |
| 9. G.S. 62-12 | Organization of Commission; adoption of rules and regulations therefor. |
| 10. G.S. 88B-6 | Board office, employees, funds, budget requirements. |
| 11. G.S. 90-270.4 | Exemptions to this Article. |
| 12. G.S. 95-2 | Election of Commissioner; term; salary; vacancy. |
| 13. G.S. 97-78 | Salaries and expenses; administrator, executive secretary, deputy commissioners, and other staff assistance; annual report. |
| 14. G.S. 106-11 | Salary of Commissioner of Agriculture. |

1	15. G.S. 113A-258	Clean Water Management Trust Fund: Executive
2		Director and staff.
3	16. G.S. 114-7	Salary of the Attorney General.
4	17. G.S. 115C-20	Office and salary.
5	18. G.S. 115D-5	Administration of institutions by State Board of
6		Community Colleges; personnel exempt from State
7		Personnel Act; extension courses; tuition waiver; in-plant
8		training; contracting, etc., for establishment and
9		operation of extension units of the community college
10		system; use of existing public school facilities.
11	19. G.S. 116-11	Powers and duties generally.
12	20. G.S. 116-30.4	Position management.
13	21. G.S. 120-36.1	Fiscal Research Division of Legislative Services
14		Commission established.
15	22. G.S. 120-79	Commission staffing.
16	23. G.S. 122A-4	North Carolina Housing Finance Agency.
17	24. G.S. 122D-5	Officers and employees; administration of Chapter.
18	25. G.S. 122E-4	North Carolina Housing Partnership created;
19		compensation; organization.
20	26. G.S. 126-1.1	Career State employee defined.
21	27. G.S. 126-2	State Personnel Commission.
22	28. G.S. 126-5	Employees subject to Chapter; exemptions.
23	29. G.S. 126-6.2	Reports.
24	30. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on
25		application for State employment; penalties.
26	31. G.S. 126-34.1	Grounds for contested case under the State Personnel Act
27		defined.
28	32. G.S. 126-35	Just cause; disciplinary actions for State employees.
29	33. G.S. 126-56	Status of employees of other governments.
30	34. G.S. 126-75	Work options for State employees.
31	35. G.S. 135-5.1	Optional retirement program for The University of North
32		Carolina.
33	36. G.S. 135-48.23	Executive Administrator.
34	37. G.S. 136-4	Chief Engineer.
35	38. G.S. 138-4	Governor to set salaries of administrative officers;
36		exceptions; longevity pay.
37	39. G.S. 138A-3	Definitions.
38	40. G.S. 140-5.15	Director of Museum of Art; appointment; dismissal;
39		powers and duties; staff.
40	41. G.S. 143-166.41	Special separation allowance.
41	42. G.S. 143-641	Powers and duties of the Commission.
42	43. G.S. 143A-9	Appointment of officers and employees; salaries of
43		department heads.
44	44. G.S. 143A-10	Governor; continuation of powers and duties; staff.
45	45. G.S. 143B-5	Governor; continuation of powers and duties.
46	46. G.S. 143B-9	Appointment of officers and employees.
47	47. G.S. 143B-10	Powers and duties of heads of principal departments.
48	48. G.S. 143B-74.2	U.S.S. North Carolina Battleship Commission –
49		employees.
50	49. G.S. 143B-131.9	Roanoke Island Commission staff.
51	50. G.S. 143B-146.7	Consequences for personnel at low-performing schools.

1	51. G.S. 143B-426.11	Powers of Agency.
2	52. G.S. 143B-426.38	Organization and operation of office.
3	53. G.S. 147-33	Compensation and expenses of Lieutenant Governor.
4	54. G.S. 147-33.76	Qualification, appointment, and duties of the State Chief
5		Information Officer.
6	55. G.S. 147-33.77	Office of Information Technology Services; organization
7		and operation.
8	56. G.S. 147-35	Salary of Secretary of State.
9	57. G.S. 147-64.1	Salary of State Auditor.
10	58. G.S. 147-64.10	Powers of appointment.
11	59. G.S. 147-65	Salary of State Treasurer.
12	60. G.S. 153A-77	Authority of boards of commissioners in certain counties
13		over commissions, boards, agencies, etc.
14	61. G.S. 153A-92	Compensation.
15	– Referring to the State Personnel Commission:	
16	1. G.S. 7A-343.1	Distribution of copies of the appellate division reports.
17	2. G.S. 7A-760	Number and status of employees; staff assignments; role
18		of State Personnel Commission.
19	3. G.S. 20-187.3	Quotas prohibited.
20	4. G.S. 53C-2-3	The Office of the Commissioner of Banks.
21	5. G.S. 58-32-10	Powers and duties of Commission.
22	6. G.S. 90B-10	Exemption from certain requirements.
23	7. G.S. 96-29	Openings listed by State agencies.
24	8. G.S. 97-77	North Carolina Industrial Commission created; members
25		appointed by Governor; terms of office; chairman.
26	9. G.S. 108A-9	Duties and responsibilities.
27	10. G.S. 108A-12	Appointment.
28	11. G.S. 108A-13	Salary.
29	12. G.S. 108A-14	Duties and responsibilities.
30	13. G.S. 115C-12	Powers and duties of the Board generally.
31	14. G.S. 115C-12.2	Voluntary shared leave.
32	15. G.S. 115C-84.2	School calendar.
33	16. G.S. 115C-272	Residence, oath of office, and salary of superintendent.
34	17. G.S. 115C-285	Salary.
35	18. G.S. 115C-316	Salary and vacation.
36	19. G.S. 115D-25.3	Voluntary shared leave.
37	20. G.S. 120-123	Service by members of the General Assembly on certain
38		boards and commissions.
39	21. G.S. 122C-121	Area director.
40	22. G.S. 122C-154	Personnel.
41	23. G.S. 126-1	Purpose of Chapter; application to local employees.
42	24. G.S. 126-2	State Personnel Commission.
43	25. G.S. 126-4	Powers and duties of State Personnel Commission.
44	26. G.S. 126-5	Employees subject to Chapter; exemptions.
45	27. G.S. 126-6.2	Reports.
46	28. G.S. 126-7	Annual Compensation Survey.
47	29. G.S. 126-7.1	Posting requirement; State employees receive priority
48		consideration; reduction-in-force; Work First hiring.
49	30. G.S. 126-8	Minimum leave granted State employees.
50	31. G.S. 126-8.3	Voluntary shared leave.

1	32. G.S. 126-8.5	Discontinued service retirement allowance and severance wages for certain State employees.
2		
3	33. G.S. 126-9	County or municipal employees may be made subject to rules adopted by local governing body.
4		
5	34. G.S. 126-10	Personnel services to local governmental units.
6	35. G.S. 126-11	Local personnel system may be established; approval and monitoring; rules and regulations.
7		
8	36. G.S. 126-14.2	Political hirings limited.
9	37. G.S. 126-14.3	Open and fair competition.
10	38. G.S. 126-14.4	Remedies.
11	39. G.S. 126-19	Equal employment opportunity plans; reports; maintenance of services by State Personnel Director.
12		
13	40. G.S. 126-23	Certain records to be kept by State agencies open to inspection.
14		
15	41. G.S. 126-25	Remedies of employee objecting to material in file.
16	42. G.S. 126-26	Rules and regulations.
17	43. G.S. 126-30	Fraudulent disclosure and willful nondisclosure on application for State employment; penalties.
18		
19	44. G.S. 126-34.2	Alternative dispute resolution.
20	45. G.S. 126-35	Just cause; disciplinary actions for State employees.
21	46. G.S. 126-58	Administration.
22	47. G.S. 126-74	Work Options Program established.
23	48. G.S. 126-75	Work options for State employees.
24	49. G.S. 126-76	Promoting Work Options Program.
25	50. G.S. 126-77	Authority of agencies to participate.
26	51. G.S. 126-78	Administration.
27	52. G.S. 126-79	Report required.
28	53. G.S. 126-82	State Personnel Commission to provide for preference.
29	54. G.S. 138A-24	Contents of statement.
30	55. G.S. 143-27.2	Discontinued service retirement allowance and severance wages for certain State employees.
31		
32	56. G.S. 143-554	Right of employee appeal.
33	57. G.S. 143-583	Model program; technical assistance; reports.
34	58. G.S. 143-584	State agency safety and health committees.
35	59. G.S. 143B-10	Powers and duties of heads of principal departments.
36	60. G.S. 148-118.8	Appointment, salary, and authority of Executive Director and inmate grievance examiners.
37		
38	61. G.S. 150B-2	Definitions.
39	– Referring to the State Personnel Director:	
40	1. G.S. 20-79.5	Special registration plates for elected and appointed State government officials.
41		
42	2. G.S. 95-127	Definitions.
43	3. G.S. 126-3	Office of State Personnel established and responsibilities outlined; administration and supervision; appointment, compensation and tenure of Director.
44		
45		
46	4. G.S. 126-4	Powers and duties of State Personnel Commission.
47	5. G.S. 126-5	Employees subject to Chapter; exemptions.
48	6. G.S. 126-8.5	Discontinued service retirement allowance and severance wages for certain State employees.
49		
50	7. G.S. 126-9	County or municipal employees may be made subject to rules adopted by local governing body.
51		

1	8.	G.S. 126-19	Equal employment opportunity plans; reports;
2			maintenance of services by State Personnel Director.
3	9.	G.S. 126-74	Work Options Program established.
4	10.	G.S. 143-27.2	Discontinued service retirement allowance and severance
5			wages for certain State employees.
6	11.	G.S. 143-345.23	Suggestion and review process; role of agency
7			coordinator and agency evaluator.
8	– Referring to the Office of State Personnel:		
9	1.	G.S. 7A-102	Assistant and deputy clerks; appointment; number;
10			salaries; duties.
11	2.	G.S. 7A-343.1	Distribution of copies of the appellate division reports.
12	3.	G.S. 15-203	Duties of the Secretary of Public Safety; appointment of
13			probation officers; reports; requests for extradition.
14	4.	G.S. 88B-6	Board office, employees, funds, budget requirements.
15	5.	G.S. 90B-10	Exemption from certain requirements.
16	6.	G.S. 116-14	President and staff.
17	7.	G.S. 116-30.1	Special responsibility constituent institutions.
18	8.	G.S. 116-30.4	Position management.
19	9.	G.S. 116-37	University of North Carolina Health Care System.
20	10.	G.S. 116-40.6	East Carolina University Medical Faculty Practice Plan.
21	11.	G.S. 122C-120.1	Job classifications; director and finance officer.
22	12.	G.S. 122C-121	Area director.
23	13.	G.S. 122C-154	Personnel.
24	14.	G.S. 126-1	Purpose of Chapter; application to local employees.
25	15.	G.S. 126-3	Office of State Personnel established and responsibilities
26			outlined; administration and supervision; appointment,
27			compensation and tenure of Director.
28	16.	G.S. 126-6.2	Reports.
29	17.	G.S. 126-7.1	Posting requirement; State employees receive priority
30			consideration; reduction-in-force; Work First hiring.
31	18.	G.S. 126-10	Personnel services to local governmental units.
32	19.	G.S. 126-11	Local personnel system may be established; approval and
33			monitoring; rules and regulations.
34	20.	G.S. 126-16.1	Equal employment opportunity training.
35	21.	G.S. 126-22	Personnel files not subject to inspection under § 132-6.
36	22.	G.S. 126-74	Work Options Program established.
37	23.	G.S. 128-15.3	Discrimination against handicapped prohibited in hiring;
38			recruitment, etc., of handicapped persons.
39	24.	G.S. 135-4	Creditable service.
40	25.	G.S. 138A-3	Definitions.
41	26.	G.S. 143-49	Powers and duties of Secretary.
42	27.	G.S. 143-64.70	Personal service contracts – reporting requirements.
43	28.	G.S. 143-215.107C	State agency goals, plans, duties, and reports.
44	29.	G.S. 143-345.21	State employee suggestion program.
45	30.	G.S. 143-345.22	Allocation of suggestion program funds; nonmonetary
46			recognition.
47	31.	G.S. 143-345.23	Suggestion and review process; role of agency
48			coordinator and agency evaluator.
49	32.	G.S. 143-345.24	State Suggestion Review Committee.
50	33.	G.S. 143-345.25	Innovations deemed property of the State; effect of
51			decisions regarding bonuses.

- 1 34. G.S. 143-583 Model program; technical assistance; reports.
- 2 35. G.S. 143B-10 Powers and duties of heads of principal departments.
- 3 36. G.S. 143B-53.2 Salaries, promotions, and leave of employees of the
- 4 North Carolina Department of Cultural Resources.
- 5 37. G.S. 143B-146.21 Policies, reports, and other miscellaneous provisions.
- 6 38. G.S. 143B-394.15 Commission established; purpose; membership;
- 7 transaction of business.
- 8 39. G.S. 143B-417 North Carolina Internship Council creation; powers and
- 9 duties.
- 10 40. G.S. 143B-806 Duties and powers of the Division of Juvenile Justice of
- 11 the Department of Public Safety.
- 12 41. G.S. 147-54.3 Land records management program.
- 13 42. G.S. 148-22.1 Educational facilities and programs for selected inmates.
- 14 **SECTION 9.2.** No action or proceeding pending on the effective date of this
- 15 section, brought by or against the State Personnel Commission, the Director of the Office of
- 16 State Personnel, or the Office of State Personnel, shall be affected by any provision of this
- 17 section, but the same may be prosecuted or defended in the new name of the Commission,
- 18 Director, and Office. In these actions and proceedings, the renamed Commission, Director, or
- 19 Office shall be substituted as a party upon proper application to the courts or other public
- 20 bodies.
- 21 **SECTION 9.3.** Any business or other matter undertaken or commanded by the
- 22 former State Personnel Commission, State Personnel Director, or Office of State Personnel
- 23 regarding any State program, office, or contract or pertaining to or connected with their
- 24 respective functions, powers, obligations, and duties that are pending on the date this act
- 25 becomes effective may be conducted and completed by the Commission, Director, or Office in
- 26 the same manner and under the same terms and conditions and with the same effect as if
- 27 conducted and completed by the formerly named commission, director, or office.
- 28 **SECTION 9.4.** This Part is effective when it becomes law.
- 29
- 30 **PART X. EFFECTIVE DATE**
- 31 **SECTION 10.** Unless otherwise provided, this act is effective when it becomes
- 32 law.