

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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HOUSE BILL 1022
Committee Substitute Favorable 5/2/05

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

(Public)

Sponsors:

Referred to:

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.

(c) For the purposes of this section, factors to be used in considering wage equity include education, knowledge, skills, length of service, related work experience, performance level, availability of funds, and the labor market."

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

2 "**§ 126-4. Powers and duties of State Personnel Commission.**

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

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

1 including gender and race-related compensation issues, and customer
2 service; and to maintain an accredited Certified Public Manager
3 program.

4 (7a) The separation of employees.

5 (8) A program of meritorious service awards.

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

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

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

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

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

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

26 (15) Recognition of State employees, public personnel management, and
27 management excellence.

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

29 (17) An alternative dispute resolution procedure.

30 (18) Delegation of authority for approval of personnel actions through
31 decentralization agreements with the heads of State agencies,
32 departments, and institutions.

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

40 b. The State Personnel Director shall have the authority to take
41 appropriate corrective actions including adjusting employee
42 salaries and changing employee classifications that are not in
43 compliance with policy or standards and to suspend

1 decentralization agreements for agency noncompliance with the
2 required personnel administration standards.

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

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

14 **SECTION 3.** G.S. 126-7(b) reads as rewritten:

15 "(b) To guide the Governor and the General Assembly in making appropriations
16 to fund the Comprehensive Compensation System, the State Personnel Commission
17 shall conduct annual compensation surveys. The annual compensation survey shall
18 include any disparities in various occupational groups and make recommendations to
19 correct those disparities. The Commission shall present the results of the compensation
20 survey to the Appropriations Committees of the House and Senate no later than two
21 weeks after the convening of the legislature in odd years and May 1st of even years."

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

23 "**§ 126-16. Equal opportunity for employment and compensation by State**
24 **departments and agencies and local political subdivisions.**

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

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

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