

# GENERAL ASSEMBLY OF NORTH CAROLINA

Session 2013

## Legislative Fiscal Note

**BILL NUMBER:** House Bill 432 (First Edition)

**SHORT TITLE:** State Temps. Apply Like Perm. Emps.

**SPONSOR(S):** Representatives Malone, Hardister, Collins, and Moffitt

<b>FISCAL IMPACT</b>					
(\$ in millions)					
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> No Estimate Available					
	FY 2013-14	FY 2014-15	FY 2015-16	FY 2016-17	FY 2017-18
<b>State Impact</b>					
General Fund Revenues:					
General Fund Expenditures:					
Special Fund Revenues:					
Special Fund Expenditures:					
State Positions:					
<b>NET STATE IMPACT</b>	<b>No estimate available. Please see Assumptions &amp; Methodology section for additional details.</b>				
<b>PRINCIPAL DEPARTMENT(S) &amp; PROGRAM(S) AFFECTED:</b>					
All State agencies, departments, institutions, universities, etc. that employ individuals in temporary assignments.					
<b>EFFECTIVE DATE:</b> When the bill becomes law.					
<b>TECHNICAL CONSIDERATIONS:</b>					
None					

**BILL SUMMARY:**

House bill 432 (H432), entitled “State Temps. Apply Like Perm. Employees,” allows temporary State employees to be treated like permanent State employees who are subject to the State Personnel Act (SPA) when applying for a State government position. The bill is effective when it becomes law.

**ASSUMPTIONS AND METHODOLOGY:**

Background

*Posting Requirements*

Per G.S. 126-7.1, all State vacancies “shall be posted in a place readily accessible to employees,” including the agency’s personnel office and work unit having the vacancy. The Statute continues “if the decision is made...to receive applicants from outside the recruiting agency” then the

announcement shall be posted on a website maintained by the Office of State Personnel (OSP). Thus, it is clear that the minimum posting requirement is for a position to be posted internally; no positions have to be posted externally. According to OSP, approximately 15 percent of state agency vacancies (excluding university positions) are posted only for applicants internal to the agency or to the State government SPA workforce.<sup>1</sup> Permanent positions must be posted, whether internally or externally, for at least five working days; temporary appointments are not required to be posted.<sup>2</sup>

#### *Hiring Requirements for Permanent Appointments*

In the hiring process for permanent appointments, it is the policy of the State to “select from the pool of the most qualified persons to fill vacant positions. Employment shall be offered based upon the job-related qualifications of applicants for employment using fair and valid selection criteria and not on political affiliation or political influence.”<sup>3</sup> Permanent appointments may be posted internally or externally and, depending on how the appointment is posted, the pool of eligible candidates varies.

Most permanent State employees are eligible to apply for internally posted positions. However, many groups, including temps, outside candidates, EPA employees, and employees with non-SPA entities such as the General Assembly, the Administrative Office of the Courts, the North Carolina Education Lottery, UNC-Hospitals, etc., are not considered candidates for internal postings. Thus, one effect of H432, treating temps like internal candidates, would be that it provides hiring rights to temps that other permanent State employees do not have.

#### *Hiring Requirements for Temporary Appointments*

A temporary appointment (temps) is “an appointment for a limited term, normally not to exceed three to six months, to a permanent or temporary position...Employees with a temporary appointment do not receive leave, total state service credit, health benefits, retirement credit, severance pay, or priority reemployment consideration.”<sup>4</sup> Temp appointments are not required to be posted, and the candidate’s qualifications vis-à-vis other candidates are not necessarily considered in hiring. Every State agency either employs temps or has the ability to employ temps.<sup>5</sup>

OSP estimates that temps make up between 10 percent and 15 percent of the State workforce (excluding university employees).<sup>6</sup> The number of temps is not inconsequential given that the State payroll system includes over 83,000 active employees, including permanent, temp., part-time and full-time employees. Using OSP’s estimates, the State has anywhere from 8,300 to 12,450

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<sup>1</sup> This is an estimate by OSP and reflects their best guess of the average ratio of internal to external postings. It is neither a calculation of the current ratio nor an average actual ratio of historical posting.

<sup>2</sup> State Personnel Manual, “Recruitment and Posting of Vacancies.”

<http://www.osp.state.nc.us/Guide/Policies/policies.htm>

<sup>3</sup> State Personnel Manual. “Selection of Applicants.” <http://www.osp.state.nc.us/Guide/Policies/policies.htm>

<sup>4</sup> State Personnel Manual. “Appointment, Types of.” <http://www.osp.state.nc.us/Guide/Policies/policies.htm>

<sup>5</sup> See “Executive Order 4: Temporary Employment Services.” <http://www.governor.nc.gov/newsroom/executive-order/20130227/executive-order-no-4-temporary-employment-services>

<sup>6</sup> This is an estimate by OSP and reflects their best guess of the average ratio of temporary to permanent appointments. It is neither a calculation of the current ratio nor an average actual ratio of historical temporary to permanent appointments.

temps at a given time. Currently, based on BEACON payroll data, there are over 9,600 temps in State agencies. These counts exclude the university system<sup>7</sup>, which has over 33,000 budgeted full-time equivalent positions, and, presumably, many more actual employees.

### Fiscal Impact of H432

The primary effect of H432 is that it would allow temps to apply for internally-posted permanent State positions. This policy change could have an impact across all of State government but the fiscal impact of the change cannot be determined. H432 could have either a positive fiscal impact (i.e. increasing expenditures) or negative fiscal impact (i.e. decreasing expenditures) on the State. Four considerations are outlined below:

1. **Positive Recurring Fiscal Impact:** H432 could *increase* the workload of agency human resources (HR) professionals for internally-posted positions through increased applications for these positions. At any given time, temps comprise between 10 percent and 15 percent of the total state workforce and, consequently, the number of applications for internally-posted positions could increase. Some increase in workload could be within the scope of work of existing staff but, if the increase is large, additional staff may be required, increasing costs for the State.
2. **Negative Recurring Fiscal Impact:** H432 could *decrease* the workload of agency HR professionals by reducing the number of externally-posted positions. Because externally-posted positions are open to everyone, agencies receive many employment applications, and agency staff spends considerable time processing and screening them. Allowing temps to apply for internally-posted positions means that agencies could post certain positions internally, instead of externally, saving the time associated with reviewing numerous applications. Depending on the change in workload, this policy could potentially reduce the number of HR professionals needed by an agency, reducing costs to the State.

OSP notes that since temps are not hired through a competitive process, allowing temps to be hired into internally-posted permanent positions may be poorly perceived, especially since certain other permanent State employees are ineligible to apply for internal postings. Hiring temps may be seen as a way to manipulate the recruitment process in order to hire a pre-selected candidate, which may undermine the State's policy of hiring the best qualified candidate, open the State to claims of nepotism, and potentially reduce employee morale.

3. **Negative Non-recurring Fiscal Impact:** H432 could increase legal challenges against the State. For example, the State is currently litigating its treatment of temps. So far in the litigation, the courts have ruled in favor of the State. However, according to OSP, the policy change required by H432 could open up the State to further legal challenges regarding the treatment of temps. OSP also believes H432 could open the State to additional employment discrimination challenges and stated specifically their concern that

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<sup>7</sup> The counts provided here exclude the university system but include the North Carolina School of Science and Math, which uses BEACON.

litigation could result “from the fact that temporary employees are perceived to have obtained their job unfairly and then gained an unfair advantage in competing for permanent positions.” The potential cost of legal challenges is unknown.

4. Lastly, H432 would require OSP to promulgate new rules. This process requires staff time and resources that cost OSP productivity and efficiency. The promulgation of rules is within the scope of work of existing OSP employees and would not require additional personnel or result in new costs to the State.

**SOURCES OF DATA:**

Office of State Personnel  
BEACON

**TECHNICAL CONSIDERATIONS:** None

**FISCAL RESEARCH DIVISION:** (919) 733-4910

**PREPARED BY:** Lanier McRee

**APPROVED BY:** Mark Trogdon, Director  
Fiscal Research Division

**DATE:** April 22, 2013



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