

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1148
Corrected Copy 5/17/96

Short Title: Decentralize Some OSP Functions.

(Public)

Sponsors: Representatives Pulley, Sherrill (Co-sponsors); Thompson, Culp, Rayfield, and McMahan.

Referred to: State Government.

May 15, 1996

1 A BILL TO BE ENTITLED
2 AN ACT TO REDUCE DUPLICATION OF WORK BETWEEN THE OFFICE OF
3 STATE PERSONNEL AND OTHER AGENCIES, DEPARTMENTS, AND
4 INSTITUTIONS BY THE DECENTRALIZATION OF CERTAIN FUNCTIONS
5 FROM THE OFFICE OF STATE PERSONNEL TO THOSE AGENCIES,
6 DEPARTMENTS, AND INSTITUTIONS.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 126-1 reads as rewritten:

9 **"ARTICLE 1.**

10 **"STATE PERSONNEL SYSTEM ESTABLISHED.**

11 **"§ 126-1. Purpose of Chapter; application to local employees.**

12 It is the intent and purpose of this Chapter to establish for the government of the State
13 a system of personnel administration under the Governor, based on accepted principles of
14 personnel administration and applying the best methods as evolved in government and
15 industry. It is also the intent of this Chapter that this system of personnel administration
16 shall apply to local employees paid entirely or in part from federal funds, except to the
17 extent that local governing boards are authorized by this Chapter to establish local rules,
18 local pay plans, and local personnel systems. It is also the intent of this Chapter to make

1 provisions for a decentralized system of personnel administration, where appropriate, and
2 without additional cost to the State, with the State Personnel Commission as the policy
3 and rule-making body. The Office of State Personnel shall make recommendations for
4 policies and rules to the Commission based on research and study in the field of
5 personnel management, develop and administer statewide standards and criteria for good
6 personnel management, provide training and technical assistance to all agencies,
7 departments, and institutions, provide oversight, which includes conducting audits to
8 monitor compliance with established State Personnel Commission policies and rules,
9 administer a system for implementing necessary corrective actions when the rule,
10 standards, or criteria are not met, and serve as the central repository for State Personnel
11 System data. The agency, department, and institution heads shall be responsible and
12 accountable for execution of Commission policies and rules for their employees."

13 Sec. 2. G.S. 126-3 reads as rewritten:

14 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**
15 **administration and supervision; appointment, compensation and tenure of**
16 **Director.**

17 (a) There is hereby established the Office of State Personnel (hereinafter referred
18 to as 'the Office') which shall be placed for organizational purposes within the
19 Department of Administration. Notwithstanding the provisions of North Carolina State
20 government reorganization as of January 1, 1975, and specifically notwithstanding the
21 provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the
22 Office of State Personnel shall exercise all of its statutory powers in this Chapter
23 independent of control by the Secretary of Administration and shall be under the
24 administration and supervision of a State Personnel Director (hereinafter referred to as
25 'the Director') appointed by the Governor and subject to the supervision of the
26 Commission for purposes of this Chapter. The salary of the Director shall be fixed by the
27 General Assembly in the Current Operations Appropriations Act. The Director shall serve
28 at the pleasure of the Governor.

29 (b) The Office shall be responsible for the following activities, and such other
30 activities as specified in this Chapter:

31 (1) Providing policy and rule development for the Commission and
32 implementing and administering all policies, rules, and procedures
33 established by the Commission;

34 (2) Providing training in personnel management to agencies, departments,
35 and institutions including train-the-trainer programs for those agencies,
36 departments, and institutions who request such training and where
37 sufficient staff and expertise exist to provide the training within their
38 respective agencies, departments, and institutions;

39 (3) Providing technical assistance in the management of personnel
40 programs and activities to agencies, departments, and institutions;

41 (4) Negotiating decentralization agreements with all agencies, departments,
42 and institutions, where it is cost-effective to include delegation of
43 authority for certain classification and corresponding salary

1 administration actions and other personnel programs to be specified in
2 the agreements;

3 (5) Administering such centralized programs and providing services as
4 approved by the Commission which have not been transferred to
5 agencies, departments, and institutions or where this authority has been
6 rescinded for noncompliance;

7 (6) Providing approval authority of personnel actions involving
8 classification and compensation where such approval authority has not
9 been transferred by the Commission to agencies, departments, and
10 institutions or where such authority has been rescinded for
11 noncompliance;

12 (7) Maintaining a computer database of all relevant and necessary
13 information on employees and positions within agencies, departments,
14 and institutions in the State's personnel system;

15 (8) Developing criteria and standards to measure the level of compliance or
16 noncompliance with established Commission policies, rules,
17 procedures, criteria, and standards in agencies, departments, and
18 institutions to which authority has been delegated for classification,
19 salary administration and other decentralized programs, and
20 determining, through routine monitoring and periodic review process,
21 that agencies, departments, and institutions are in compliance or
22 noncompliance with established Commission policies, rules,
23 procedures, criteria, and standards;

24 (9) Implementing corrective actions in cases of noncompliance."

25 Sec. 3. G.S. 126-4 reads as rewritten:

26 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

29 (1) Position classification plans which shall provide for the classification
30 and reclassification of all positions subject to this Chapter according to
31 the duties and responsibilities of the positions.

32 (2) Compensation plans which shall provide for minimum, maximum, and
33 intermediate rates of pay for all employees subject to the provisions of
34 this Chapter.

35 (3) For each class of positions, reasonable qualifications as to education,
36 experience, specialized training, licenses, certifications, and other job-
37 related requirements pertinent to the work to be performed.

38 (4) Recruitment programs designed to promote public employment,
39 communicate current hiring activities within State government, and
40 attract a sufficient flow of internal and external applicants; and
41 determine the relative fitness of applicants for the respective positions.

42 (5) Hours and days of work, holidays, vacation, sick leave, and other
43 matters pertaining to the conditions of employment. The legal public

1 holidays established by the Commission as paid holidays for State
2 employees shall include Martin Luther King, Jr.'s Birthday and Veterans
3 Day. The Commission shall not provide for more than 11 paid holidays
4 per year except that in those years in which Christmas Day falls on a
5 Tuesday, Wednesday, or Thursday, the Commission shall not provide
6 for more than 12 paid holidays.

7 (5a) In years in which New Year's Day falls on Saturday, the Commission
8 may designate December 31 of the previous calendar year as the New
9 Year's holiday, provided that the number of holidays for the previous
10 calendar year does not exceed 12 and the number of holidays for the
11 current year does not exceed 10. When New Year's Day falls on either
12 Saturday or Sunday, the constituent institutions of The University of
13 North Carolina that adopt alternative dates to recognize the legal public
14 holidays set forth in subdivision (5) of this section and established by
15 the Commission may designate, in accordance with the rules of the
16 Commission and the requirements of this subdivision, December 31 of
17 the previous calendar year as the New Year's holiday.

18 (6) The appointment, promotion, transfer, demotion and suspension of
19 employees.

20 (7) Cooperation with the State Board of Education, the Department of
21 Public Instruction, the University of North Carolina, and the
22 Community Colleges of the State and other appropriate resources in
23 developing programs in, including but not limited to, management and
24 supervisory skills, performance evaluation, specialized employee skills,
25 accident prevention, equal employment opportunity awareness, and
26 customer service; and to maintain an accredited Certified Public
27 Manager program.

28 (7a) The separation of employees.

29 (8) A program of meritorious service awards.

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

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

42 (11) In cases where the Commission finds discrimination or orders
43 reinstatement or back pay whether (i) heard by the Commission or (ii)

- 1 appealed for limited review after settlement or (iii) resolved at the
2 agency level, the assessment of reasonable attorneys' fees and witnesses'
3 fees against the State agency involved.
- 4 (12) Repealed by Session Laws 1987, c. 320, s. 2.
5 (13) Repealed by Session Laws 1987, c. 320, s. 3.
6 (14) The implementation of G.S. 126-5(e).
7 (15) Recognition of State employees, public personnel management, and
8 management excellence.
9 (16) The implementation of G.S. 126-7.
10 (17) An alternative dispute resolution procedure.
11 (18) The decentralization process, where appropriate, for state agencies,
12 departments, and institutions, and enforcement of corrective actions
13 including reducing employee salaries and changing employee
14 classifications that do not comply with the policy, criteria, or standards;
15 also includes, but is not limited to, suspension of decentralization
16 agreements in cases of noncompliance; and in cases of suspension of
17 decentralization agreements for noncompliance, the assessment and
18 reimbursement to the Office of State Personnel for resulting operational
19 and personnel costs associated with the period of modification of the
20 agreement. The Office of State Budget and Management is authorized
21 to allow agencies, departments, and institutions to use lapsed salaries
22 and salary reserves for this purpose and shall direct use of such funds
23 for this purpose upon being notified by the State Personnel
24 Commission.
- 25 The policies and rules of the Commission shall not limit the power of any elected or
26 appointed department head, in the department head's discretion and upon the department
27 head's determination that it is in the best interest of the Department, to transfer, demote,
28 or separate a State employee who is not a career State employee as defined by this
29 Chapter."
- 30 Sec. 4. This act becomes effective October 1, 1996.