

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

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HOUSE BILL 2142  
Second Edition Engrossed 7/9/90

Short Title: Performance Pay Oversight.

(Public)

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Sponsors: Representatives Fitch; Stamey, Barnes, H. Hunter, Fletcher, Nye, Barbee, Blue, and Fussell.

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Referred to: Public Employees.

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May 29, 1990

A BILL TO BE ENTITLED

1  
2 AN ACT TO ESTABLISH A PERFORMANCE MANAGEMENT AND PAY  
3 ADVISORY COMMITTEE WITHIN EACH DEPARTMENT, AGENCY, AND  
4 INSTITUTION TO ENSURE THAT PERFORMANCE PAY INCREASES ARE  
5 MADE IN A FAIR AND EQUITABLE MANNER.

6 The General Assembly of North Carolina enacts:

7 Section 1. G.S. 126-7(c) reads as rewritten:

8 "(c) Performance increases shall be based on performance appraisals of  
9 all employees conducted by each department, agency, and institution. The State  
10 Personnel Commission, under the authority of G.S. 126-4(8), shall adopt policy and  
11 regulations for performance appraisal. The policy and regulations shall include the  
12 following:

13 (1) The performance appraisal system of each department, agency, or  
14 institution shall be designed and administered to ensure that  
15 performance increases are distributed fairly and reward only  
16 performance that exceeds performance requirements.

17 (2) To be eligible to distribute its share of the performance increase  
18 allocation, a department, agency, or institution shall have an operative  
19 performance appraisal system which has been approved by the State  
20 Personnel Director. The performance appraisal system adopted shall  
21 use a rating scale of at least five levels, with the top three levels  
22 qualifying for performance increases, and shall adhere to modern

1 personnel management techniques and practices in common use in the  
2 public and private sectors. Departments, agencies, and institutions  
3 with existing performance appraisal systems which use a rating scale  
4 which is not consistent with the five-level system described above  
5 shall have until July 1, 1991, to bring their systems into compliance  
6 with this subsection.

7 (3) The State Personnel Director shall help departments, agencies, and  
8 institutions to establish and administer their performance appraisal  
9 systems and shall provide initial and ongoing training in performance  
10 appraisal and performance system administration.

11 (4) An employee whose performance exceeds performance requirements  
12 shall receive a performance increase unless the employee's supervisor  
13 justifies in writing the decision not to award the performance increase.  
14 An employee whose performance does not exceed performance  
15 requirements shall not receive a performance increase.

16 (5) The State Personnel Director shall set the performance increase ranges  
17 allowable for levels of performance that exceed performance  
18 requirements. Absent the supervisor's written justification, an  
19 employee whose performance exceeds expectations shall receive a  
20 percentage increase equal to the midrange value for his rating level.  
21 With the supervisor's written justification, an individual employee's  
22 increase may vary above or below the midrange value within the  
23 allowable range. A supervisor's performance appraisal plan,  
24 evaluation standards for each employee, and individual employee  
25 ratings and recommended performance increase amounts, with  
26 justification, shall be reviewed and approved by that supervisor's next  
27 higher level supervisor.

28 (6) The State Personnel Director may suspend any performance increase  
29 that does not appear to meet the intent of the provisions of the  
30 performance pay system and require the originating department,  
31 agency, or institution to reconsider or justify the increase.

32 (7) An employee who disputes the fairness of his performance evaluation  
33 or the sufficiency of the increase awarded or who believes that he was  
34 unfairly denied a performance increase shall first discuss the problem  
35 with his supervisor. Appeals of the supervisor's decision shall be made  
36 only to the grievance committee or internal performance review board  
37 of the department, agency, or institution which shall make a  
38 recommendation to the head of the department, agency, or institution  
39 for final decision. The State Personnel Director shall help a  
40 department, agency, or institution establish an internal performance  
41 review board or, if it includes employee members, to use its existing  
42 grievance committee to hear performance pay disputes.  
43 Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-

- 1 34, performance pay disputes, including disputes about individual  
2 performance appraisals, shall not be considered contested case issues.  
3 (7a) Each department, agency, and institution shall establish a performance  
4 management and pay advisory committee as part of the performance  
5 appraisal system. The purpose of the committee is to ensure that  
6 performance pay increases are made in an equitable manner. The  
7 committee shall be responsible for reviewing:  
8 a. Agency performance pay policies and performance pay plan to  
9 determine whether this section and any guidelines promulgated  
10 by the Office of State Personnel have been adhered to;  
11 b. Agency training and education programs to determine whether  
12 all employees receive appropriate information; and  
13 c. Performance ratings within the department, agency, or  
14 institution to determine whether an equitable distribution has  
15 been made.

16 The committee must have a minimum of five members. The head  
17 of each department, agency, and institution shall appoint the members  
18 of the committee with equal representation of nonsupervisory,  
19 supervisory, and management employees. The committee shall elect  
20 its own chair.

21 The performance management and pay advisory committee shall  
22 meet at least two times each year. The committee shall submit a  
23 written report following each meeting to the head of the department,  
24 agency, or institution. The report shall include recommendations for  
25 changes and corrections in the administration of the performance  
26 management system. The recommendations of the committee shall be  
27 advisory only. The head of the department, agency, or institution shall  
28 respond to the committee within three months. Copies of the report  
29 shall be included in the report to the Office of State Personnel that is  
30 required of that agency, department, or institution. Summaries of the  
31 report shall be included in the annual reports that are mandated by this  
32 subsection.

- 33 (8) The State Personnel Director shall monitor the performance appraisal  
34 system and performance increase distribution of each employing unit  
35 within each department, agency, and institution. Each department,  
36 agency, and institution shall submit to the Director annual reports  
37 which shall include data on the demographics of performance ratings,  
38 the frequency of evaluations, the performance pay increases awarded,  
39 and the implementation schedule for performance pay increases. The  
40 Director shall analyze the data to ensure that performance increases are  
41 distributed fairly within each department, agency, and institution and  
42 across all departments, agencies, and institutions of State government  
43 and shall report back to each department, agency, and institution on its  
44 appraisal and distribution performance.

1           (9)    The State Personnel Director shall report annually on the performance  
2                   pay program to the Commission.  The report shall evaluate the  
3                   performance of each department, agency, and institution in the  
4                   administration of its appraisal system and the distribution of  
5                   performance increases within each department, agency, and institution  
6                   and across State government.  The report shall include  
7                   recommendations for improving the performance appraisal system and  
8                   alleviating inequities.  Copies of the report shall be sent to the State  
9                   Auditor.

10          (10)   The Commission shall report annually to the Governor, the Lieutenant  
11                   Governor, the President Pro Tempore of the Senate, the Speaker of the  
12                   House of Representatives, and the Standing Personnel Committees of  
13                   the House and the Senate.  The Commission report shall include an  
14                   evaluation of the administration of the appraisal system and  
15                   distribution of performance increases by each department, agency, and  
16                   institution.  The State Personnel Director shall recommend to the  
17                   General Assembly for its approval sanctions to be levied against  
18                   departments, agencies, and institutions that have deficient appraisal  
19                   systems or that do not link performance increases to performance.  
20                   These sanctions may include withholding performance increases from  
21                   the managers and supervisors of individual employing units of  
22                   departments, agencies, and institutions in which discrepancies exist."

23          Sec. 2.  This act shall become effective July 1, 1990.