

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 907
Second Edition Engrossed 5/9/91

Short Title: Cost of Living Increase Priority.

(Public)

Sponsors: Representative Fletcher.

Referred to: Public Employees.

April 18, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO GIVE GENERAL PAY INCREASES PRIORITY OVER
3 PERFORMANCE PAY AS THE GOVERNOR AND GENERAL ASSEMBLY
4 DETERMINE THE APPROPRIATE ALLOCATION OF STATE EMPLOYEE
5 SALARY INCREASES RELATING TO COST OF LIVING ADJUSTMENTS
6 AND PERFORMANCE PAY.

7 The General Assembly of North Carolina enacts:

8 Section 1. G.S. 126-7 reads as rewritten:

9 "**§ 126-7. Compensation of State employees.**

10 (a) It is the policy of the State to compensate its employees at a level sufficient to
11 encourage excellence of performance and to maintain the labor market competitiveness
12 necessary to recruit and retain a competent work force. To this end, salary increases to
13 State employees ~~shall~~may be based, in part, on each individual employee's job
14 performance and, in part, on general increases given to all State employees.

15 (a1) General salary increases for State employees shall precede any consideration
16 of a performance pay allocation. Performance pay shall be allocated only when the total
17 allocation for increases equals or exceeds two percent (2%).

18 (b) To guide the Governor and the General Assembly in making appropriations
19 to further the compensation policy of the State, the State Personnel Commission shall
20 conduct annual compensation surveys. ~~The Commission shall determine the percent of~~
21 ~~funds appropriated for salary increases to be reserved for a general increase for all State~~
22 ~~employees and the percent to be reserved for performance-based increases for eligible~~
23 ~~employees.—The Commission shall present its recommendation on the percentages and the~~

1 results of the compensation survey to the Appropriations Committees of the House and
2 Senate no later than two weeks after the convening of the legislature in odd years and
3 May 1st of even years. ~~The amount reserved for performance increases shall not be less than~~
4 ~~twenty-five percent (25%) nor more than seventy-five percent (75%) of the total allocation.~~

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

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

14 (2) To be eligible to distribute its share of the performance increase
15 allocation, a department, agency, or institution shall have an operative
16 performance appraisal system which has been approved by the State
17 Personnel Director. The performance appraisal system adopted shall
18 use a rating scale of:

19 a. Five levels, with the top two levels qualifying for performance
20 increases; or

21 b. Other than five levels, with the levels qualifying for
22 performance increases to be designated by the State Personnel
23 Commission, for those job classifications in those employing
24 units where a department, agency, or institution demonstrates to
25 the State Personnel Commission that some number of levels
26 other than five would be appropriate, and the State Personnel
27 Commission, after conducting a public hearing, determines that
28 a rating scale of other than five levels is more appropriate than
29 five levels for a particular job classification within a particular
30 employing unit.

31 There shall be a presumption that a five-level system is the most
32 appropriate system, and the department, agency, or institution must
33 demonstrate with clear and convincing evidence that a different system
34 is more appropriate. The performance appraisal system adopted shall
35 adhere to modern personnel management techniques and practices in
36 common use in the public and private sectors. Departments, agencies,
37 and institutions with existing performance appraisal systems which use
38 a rating scale which is not consistent with the system described above
39 shall have until July 1, 1991, to bring their systems into compliance
40 with this subsection.

41 (3) The State Personnel Director shall help departments, agencies, and
42 institutions to establish and administer their performance appraisal
43 systems and shall provide initial and ongoing training in performance
44 appraisal and performance system administration.

- 1 (4) An employee whose performance exceeds performance requirements
2 shall receive a performance increase unless the employee's supervisor
3 justifies in writing to the employee the decision not to award the
4 performance increase. An employee whose performance does not
5 exceed performance requirements shall not receive a performance
6 increase. Standards for performance and standards for performance
7 pay increases may be established for each department, agency, or
8 institution. These standards may not set limits so as to preclude an
9 employee whose performance exceeds performance requirements from
10 consideration for an increase.
- 11 (5) The State Personnel Director shall set the performance increase ranges
12 allowable for levels of performance that exceed performance
13 requirements. An employee whose performance exceeds expectations
14 shall receive a percentage increase equal to the midrange value for his
15 rating, unless the supervisor can justify an increase above or below the
16 midrange value within the allowable range. The supervisor shall give
17 an employee written justification of his decision to award an increase
18 above or below the midrange value when the employee requests
19 written justification. A supervisor's performance appraisal plan,
20 evaluation standards for each employee, and individual employee
21 ratings and recommended performance increase amounts, with
22 justification, shall be reviewed and approved by that supervisor's next
23 higher level supervisor.
- 24 (5a) If an employee is otherwise eligible for a performance increase and is
25 at the top of (but does not exceed) a pay scale, the employee shall
26 receive a performance increase in the form of a performance bonus.
27 This performance bonus shall be a one-time, lump-sum award paid
28 separately from any other payment to the employee for the year. Such
29 award shall not serve to increase the base pay of such employee. An
30 award of this bonus pursuant to this subdivision does not affect:
- 31 a. The value of the top of any pay scale; and
32 b. The employee's current salary, which will remain at the top of
33 the pay scale.
- 34 Except as provided in this subdivision, all other provisions of this
35 subsection shall apply to an employee at the top of a pay scale.
- 36 (6) The State Personnel Director may suspend any performance increase
37 that does not appear to meet the intent of the provisions of the
38 performance pay system and require the originating department,
39 agency, or institution to reconsider or justify the increase.
- 40 (7) An employee who disputes the fairness of his performance evaluation
41 or the sufficiency of the increase awarded or who believes that he was
42 unfairly denied a performance increase shall first discuss the problem
43 with his supervisor. Appeals of the supervisor's decision shall be made
44 only to the grievance committee or internal performance review board

1 of the department, agency, or institution which shall make a
2 recommendation to the head of the department, agency, or institution
3 for final decision. The State Personnel Director shall help a
4 department, agency, or institution establish an internal performance
5 review board or, if it includes employee members, to use its existing
6 grievance committee to hear performance pay disputes.
7 Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-
8 34, performance pay disputes, including disputes about individual
9 performance appraisals, shall not be considered contested case issues.

10 (7a) Each department, agency, and institution shall establish a performance
11 management and pay advisory committee as part of the performance
12 appraisal system. The purpose of the committee is to ensure that
13 performance pay increases are made in an equitable manner. The
14 committee shall be responsible for reviewing:

- 15 a. Agency performance pay policies and performance pay plan to
16 determine whether this section and any guidelines promulgated
17 by the Office of State Personnel have been adhered to;
- 18 b. Agency training and education programs to determine whether
19 all employees receive appropriate information; and
- 20 c. Performance ratings within the department, agency, or
21 institution to determine whether an equitable distribution has
22 been made.

23 The committee must have a minimum of five members. The head
24 of each department, agency, and institution shall appoint the members
25 of the committee with equal representation of nonsupervisory,
26 supervisory, and management employees. The committee shall elect
27 its own chair.

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

40 Nothing in subdivision (7a) and each subpart hereof shall be
41 construed to obligate the General Assembly to appropriate funds to
42 implement the provisions of this subdivision.

43 (8) The State Personnel Director shall monitor the performance appraisal
44 system and performance increase distribution of each employing unit

1 within each department, agency, and institution. Each department,
2 agency, and institution shall submit to the Director annual reports
3 which shall include data on the demographics of performance ratings,
4 the frequency of evaluations, the performance pay increases awarded,
5 and the implementation schedule for performance pay increases. The
6 Director shall analyze the data to ensure that performance increases are
7 distributed fairly within each department, agency, and institution and
8 across all departments, agencies, and institutions of State government
9 and shall report back to each department, agency, and institution on its
10 appraisal and distribution performance.

11 (9) The State Personnel Director shall report annually on the performance
12 pay program to the Commission. The report shall evaluate the
13 performance of each department, agency, and institution in the
14 administration of its appraisal system and the distribution of
15 performance increases within each department, agency, and institution
16 and across State government. The report shall include
17 recommendations for improving the performance appraisal system and
18 alleviating inequities. Copies of the report shall be sent to the State
19 Auditor.

20 (10) The Commission shall report annually to the Governor, the Lieutenant
21 Governor, the President Pro Tempore of the Senate, the Speaker of the
22 House of Representatives, and the Standing Personnel Committees of
23 the House and the Senate. The Commission report shall include an
24 evaluation of the administration of the appraisal system and
25 distribution of performance increases by each department, agency, and
26 institution. The State Personnel Director shall recommend to the
27 General Assembly for its approval sanctions to be levied against
28 departments, agencies, and institutions that have deficient appraisal
29 systems or that do not link performance increases to performance.
30 These sanctions may include withholding performance increases from
31 the managers and supervisors of individual employing units of
32 departments, agencies, and institutions in which discrepancies exist.

33 (d) The provisions of subsections (a), (b), and (c) shall not affect the system of
34 longevity payments established by the State Personnel Commission."

35 Sec. 2. This act is effective upon ratification.