

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 288

Short Title: GPAC/Personnel Policy.

(Public)

Sponsors: (by request) Representatives Blue, Barnes, Diamont, Hackney, Hensley, H. Hunter, G. Miller, Nesbitt, and Robinson.

Referred to: Public Employees.

February 25, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT THE RECOMMENDATIONS OF THE GOVERNMENT
PERFORMANCE AUDIT COMMITTEE REGARDING PERSONNEL POLICY.

The General Assembly of North Carolina enacts:

—STATE HUMAN RESOURCES PLANNING

Section 1. (a) Article 1 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-3.1. State human resources management planning.

(a) The Office of State Personnel shall be responsible for the State's ongoing human resources management planning effort. The purpose of human resources management planning shall be to assist in the determination of the mission and future of the State's human resources management programs and functions. Human resources management planning shall include planning with regard to the recruitment, selection, organization, training, and development of the State employee work force.

(b) The Office of State Personnel shall coordinate the State's management of human resources so as to ensure that all State human resources management programs are integrated fully within a comprehensive overall human resources management plan. Each State department, agency, and institution, and the judicial and legislative branches, shall be monitored by the Office of State Personnel to ensure that human resources planning at the departmental, agency, and institutional level is in compliance with the comprehensive plan and effective human resources management practices."

(b) This section is effective upon ratification.

—MONITOR STATE EMPLOYEE MANAGEMENT

1 Sec. 2. (a) Article 1 of Chapter 126 of the General Statutes is amended by
2 adding a new section to read:

3 **"§ 126-4.1. State human resource management monitored.**

4 (a) The Office of State Personnel shall monitor the overall effectiveness of State
5 policies and programs pertaining to human resources management and shall determine
6 appropriate measures to monitor the condition and goal achievement of the human
7 resource management function. The effectiveness of the human resources management
8 function shall be measured in reference to each of the following:

- 9 (1) Fiscal Trends. – Measures that relate budget and fiscal issues to the
10 employee cost for compensation, benefits, and the human resource
11 department expenses and employees.
12 (2) Employee Benefits. – Measures to assess the usage of all benefit
13 programs, participation patterns or optional programs, and costs per
14 full-time employee for benefits programs.
15 (3) Absence and Turnover. – Measures to signal potential problems with
16 workforce absenteeism and dissatisfaction with pay and turnover rates.
17 Prerequisites to these measures are accurate attendance records and
18 data to document why employees are leaving State employment.
19 (4) Hiring and Staffing. – Measures to evaluate the rate at which persons
20 are entering State employment, the cost of hiring, the time taken to fill
21 jobs, and the ratio of job offer to acceptances.
22 (5) Equal Employment. – Measures to evaluate inequities in hiring,
23 promotions, and compensation as it relates to minorities, women, and
24 the disabled.
25 (6) Training and Development. – Measures to evaluate the cost per unit of
26 training delivered, change in knowledge and skill based on pre- and
27 post-test scores, and the number of hours of training available to
28 trainees.

29 (b) The Office of State Personnel shall develop an automated system to track and
30 monitor on an ongoing basis the human resources management function.

31 (c) Each State department, agency, and institution shall utilize the automated
32 system to assess the effectiveness of the human resources management of the
33 department, agency, or institution.

34 (d) The human resources management function performance measures shall be
35 benchmarked in relation to individual agencies, departments, and institutions as well as
36 against other state governments. The Office of State Personnel may solicit other state
37 and local governments to participate in a survey of performance measures."

38 (b) This section is effective upon ratification.

39 —PERSONNEL DIRECTOR HIRING

40 Sec. 3. (a) G.S. 126-4 reads as rewritten:

41 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 1 (1) Position classification plans which shall provide for the classification
2 and reclassification of all positions subject to this Chapter according to
3 the duties and responsibilities of the positions.
- 4 (2) Compensation plans which shall provide for minimum, maximum, and
5 intermediate rates of pay for all employees subject to the provisions of
6 this Chapter.
- 7 (3) For each class of positions, reasonable qualifications as to education,
8 experience, specialized training, licenses, certifications, and other job-
9 related requirements pertinent to the work to be performed.
- 10 (4) Recruitment programs designed to promote public employment,
11 communicate current hiring activities within State government, and
12 attract a sufficient flow of internal and external applicants; and
13 determine the relative fitness of applicants for the respective positions.
- 14 (5) Hours and days of work, holidays, vacation, sick leave, and other
15 matters pertaining to the conditions of employment. The legal public
16 holidays established by the Commission as paid holidays for State
17 employees shall include Martin Luther King, Jr.'s, Birthday and
18 Veterans Day. The Commission shall not provide for more than 11
19 paid holidays per year except that in those years in which Christmas
20 Day falls on a Tuesday, Wednesday, or Thursday, the Commission
21 shall not provide for more than 12 paid holidays.
- 22 (6) The appointment, promotion, transfer, demotion and suspension of
23 employees.
- 24 (6a) The establishment of guidelines for the recruitment, appointment, and
25 retention of the State Personnel Director and of the personnel directors
26 of State departments, agencies, and institutions.
- 27 (7) Cooperation with the Department of Public Education, the University
28 of North Carolina, and the Community Colleges of the State and other
29 appropriate resources in developing programs in, including but not
30 limited to, management and supervisory skills, performance
31 evaluation, specialized employee skills, accident prevention, equal
32 employment opportunity awareness, and customer service; and to
33 maintain an accredited Certified Public Manager program.
- 34 (7a) The separation of employees.
- 35 (8) The evaluation of employee performance, the granting of performance
36 salary increases, and a program of meritorious service awards.
- 37 (9) The investigation of complaints and the issuing of such binding
38 corrective orders or such other appropriate action concerning
39 employment, promotion, demotion, transfer, discharge, reinstatement,
40 and any other issue defined as a contested case issue by this Chapter in
41 all cases as the Commission shall find justified.
- 42 (10) Programs of safety, health, employee assistance, productivity
43 incentives, equal opportunity and such other programs and procedures
44 as may be necessary to promote efficiency of administration and

1 provide for a fair and modern system of personnel administration. This
2 subdivision may not be construed to authorize the establishment of an
3 incentive pay program.

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

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

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

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

12 (15) Recognition of State employees, public personnel management, and
13 management excellence.

14 Such policies and rules shall not limit the power of any elected or appointed
15 department head, in his discretion and upon his determination that it is in the best
16 interest of the Department, to transfer, demote, or separate a State

17 (1) Employee in a grade 60 or lower position who has not been
18 continuously employed by the State of North Carolina for the
19 immediate 12 preceding months;

20 (2) Employee in a grade 61 to grade 65 position who has not been
21 continuously employed by the State of North Carolina for the
22 immediate 36 preceding months;

23 (3) Employee in a grade 66 to grade 70 position who has not been
24 continuously employed by the State of North Carolina for the
25 immediate 48 preceding months; or

26 (4) Employee in a grade 71 or higher position who has not been
27 continuously employed by the State of North Carolina for the
28 immediate 60 preceding months."

29 (b) G.S. 126-3 reads as rewritten:

30 **"§ 126-3. Office of State Personnel established; administration and supervision;
31 appointment, compensation and tenure of Director.**

32 There is hereby established the Office of State Personnel (hereinafter referred to as
33 'the Office') which shall be placed for organizational purposes within the Department of
34 Administration. Notwithstanding the provisions of North Carolina State government
35 reorganization as of January 1, 1975, and specifically notwithstanding the provisions of
36 Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the Office of
37 State Personnel shall exercise all of its statutory powers in this Chapter independent of
38 control by the Secretary of Administration and shall be under the administration and
39 supervision of a State Personnel Director (hereinafter referred to as 'the Director')
40 appointed by the Governor and subject to the supervision of the Commission for
41 purposes of this Chapter. The Commission shall develop job requirements for the
42 Director that include education and experience requirements. The Director shall be
43 appointed to serve a term concurrent with the term of the appointing Governor and shall
44 be removed only for cause. The salary of the Director shall be fixed by the General

1 Assembly in the Current Operations Appropriations Act. The Director shall serve at the
2 pleasure of the Governor."

3 (c) G.S. 143B-9 reads as rewritten:

4 **"§ 143B-9. Appointment of officers and employees.**

5 The head of each principal State department, except those departments headed by
6 popularly elected officers, shall be appointed by the Governor and serve at his pleasure.

7 The salary of the head of each of the principal State departments and of elected
8 officials shall be as provided by law.

9 The head of a principal State department shall appoint a chief deputy or chief
10 assistant, and such chief deputy or chief assistant shall not be subject to the State
11 Personnel Act. The salary of such chief deputy or chief assistant shall, upon the
12 recommendation of the Governor, be set by the General Assembly. Unless otherwise
13 provided for in the Executive Organization Act of 1973, and subject to the provisions of
14 the Personnel Act, the head of each principal State department shall designate the
15 administrative head of each transferred agency and all employees of each division,
16 section, or other unit of the principal State department.

17 The head of a principal State department shall appoint a personnel director following
18 a competitive process based upon educational and experience guidelines established by
19 the State Personnel Commission."

20 (d) Departments headed by a member of the Council of State, other than the
21 Governor and Lieutenant Governor, shall employ a personnel director appointed
22 following a competitive process based upon educational and experience guidelines
23 established by the State Personnel Commission.

24 (e) This section is effective upon ratification.

25 —POLITICAL HIRING LIMITED

26 Sec. 4. (a) Chapter 126 of the General Statutes is amended by adding a new
27 section to read:

28 **"§ 126-14.2. Political hirings limited; policy; rules.**

29 (a) It is the policy of this State that State departments, agencies, and institutions
30 select the most qualified persons for State government employment based upon job-
31 related qualifications of applicants for employment and not based upon political
32 affiliation, except that certain policy-making positions in State government employment
33 may be filled on bases including political affiliation where the General Assembly has
34 expressly authorized such hirings.

35 (b) The personnel policies and procedures of each State department, agency, and
36 institution shall be updated to implement the policy of nonpolitical hiring set forth in
37 subsection (a) of this section.

38 (c) The personnel policies and procedures of the legislative and judicial branches
39 shall be updated to implement nonpolitical hirings in accordance with subsection (a) of
40 this section.

41 (d) The Office of State Personnel shall provide training to State supervisory
42 personnel that is designed to carry out the intent of subsection (a) of this section.

43 (e) The State Personnel Commission shall adopt rules to:

- 1 (1) Assure that State departments, agencies, and institutions follow the
2 same selection process when hiring State employees;
3 (2) Encourage open competition for positions in State government
4 employment;
5 (3) Broaden the advertisement of job openings in State government
6 employment and lengthen the period for submitting applications for
7 State government employment; and
8 (4) Require that State supervisory personnel responsible for hiring State
9 employees must execute for each new hire a certification indicating
10 that the hiring decision was made in accordance with State personnel
11 policies and was not made on the basis of patronage."

12 (b) G.S. 126-5 is amended by adding a new subsection to read:

13 "(c6) Notwithstanding any other provision of this Chapter, G.S. 126-14.2 shall
14 apply to all State employees, public school employees, and community colleges
15 employees."

16 (c) This section is effective upon ratification.

17 —ANNUAL STATE EMPLOYEE SURVEY

18 Sec. 5. (a) Article 1 of Chapter 126 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 126-4.1. Annual employee survey.**

21 (a) The Office of State Personnel shall conduct an annual employee opinion
22 survey with input from and in cooperation with the personnel directors of each State
23 department, agency, and institution. The information received from this survey shall be
24 provided, in a timely manner, to State employees in order to increase awareness and
25 understanding and to gain greater commitment to the State's goals and objectives. The
26 dissemination of annual survey results to employees shall be done in a manner
27 calculated to foster improved job performance, enhanced job satisfaction, and increased
28 employee motivation.

29 (b) The annual employee opinion survey shall differentiate between managers
30 and staff and shall include all three branches of government. The Office shall establish
31 an appropriate year-to-year benchmarking process that will provide for the effective
32 utilization of survey data. The Office shall establish appropriate baseline survey
33 questions and shall use other appropriate surveying methods to ensure from year to year
34 the accurate and meaningful comparison of employee opinion survey results."

35 (b) Article 29 of Chapter 7A of the General Statutes is amended by adding a new
36 section to read:

37 **"§ 7A-342.1. Annual employee survey.**

38 Subject to the approval of the Chief Justice, the Administrative Officer of the Courts
39 shall establish for the purpose of effective human resources management policies and
40 procedures to implement an annual opinion survey of employees of the judicial branch
41 in cooperation with the Office of State Personnel."

42 (c) G.S. 120-32 reads as rewritten:

43 **"§ 120-32. Commission duties.**

44 The Legislative Services Commission is hereby authorized to:

- 1 (1) Determine the number, titles, classification, functions, compensation,
2 and other conditions of employment of the joint legislative service
3 employees of the General Assembly, including but not limited to the
4 following departments:
 - 5 a. Legislative Services Officer and personnel,
 - 6 b. Electronic document writing system,
 - 7 c. Proofreaders,
 - 8 d. Legislative printing,
 - 9 e. Enrolling clerk and personnel,
 - 10 f. Library,
 - 11 g. Research and bill drafting,
 - 12 h. Printed bills,
 - 13 i. Disbursing and supply;
- 14 (2) Determine the classification and compensation of employees of the
15 respective houses other than staff elected officers; however, the hiring
16 of employees of each house and their duties shall be prescribed by the
17 rules and administrative regulations of the respective house;
- 18 (2a) Conduct an annual opinion survey of legislative branch employees for
19 the purpose of effective human resources management in cooperation
20 with the Office of State Personnel;
- 21 (3) Acquire and dispose of furnishings, furniture, equipment, and supplies
22 required by the General Assembly, its agencies and commissions and
23 maintain custody of same between sessions. It shall be a misdemeanor
24 for any person(s) to remove any State-owned furniture, fixtures, or
25 equipment from the State Legislative Building for any purpose
26 whatsoever, except as approved by the Legislative Services
27 Commission;
- 28 (4) Contract for services required for the operation of the General
29 Assembly, its agencies, and commissions; however, any departure
30 from established operating procedures, requiring a substantial
31 expenditure of funds, shall be approved by appropriate resolution of
32 the General Assembly;
- 33 (5)
 - 34 a. Provide for engrossing and enrolling of bills,
 - 35 b. Appoint an enrolling clerk to act under its supervision in the
enrollment and ratification of acts;
- 36 (6)
 - 37 a. Provide for the duplication and limited distribution of copies of
38 ratified laws and joint resolutions of the General Assembly and
forward such copies to the persons authorized to receive same,
 - 39 b. Maintain such records of legislative activities and publish such
40 documents as it may deem appropriate for the operation of the
41 General Assembly;
- 42 (7)
 - 43 a. Provide for the indexing and printing of the session laws of each
44 regular, extra or special session of the General Assembly and provide
for the printing of the journal of each house of the General Assembly,

1 b. Provide and supply to the Secretary of State such bound
2 volumes of the journals and session laws as may be required by
3 him to be distributed under the provisions of G.S. 147-45, 147-
4 46.1 and 147-48.

5 (8) Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1014, s. 40.

6 (9) To establish a bill drafting division to draft bills at the request of
7 members or committees of the General Assembly.

8 (10) To select the locations for buildings occupied by the General
9 Assembly, and to name any building occupied by the General
10 Assembly.

11 (11) To specify the uses within the General Assembly budget of funds
12 appropriated to the General Assembly which remain available for
13 expenditure after the end of the biennial fiscal period, and to revert
14 funds under G.S. 143-18.

15 (12) Provide insurance to provide excess indemnity for any occurrence
16 which results in a claim against any member of the General Assembly,
17 as provided in G.S. 143-300.2 through G.S. 143-300.6. That insurance
18 may not provide for any indemnity to be payable for any claim not
19 covered by the above cited statutes, nor for any criminal act by a
20 member, nor for any act committed by a member or former member
21 prior to the inception of insurance.

22 (13) Provide insurance to provide excess indemnity for any occurrence that
23 results in a claim against any employee, officer, or committee,
24 subcommittee, or commission member in the legislative branch other
25 than a member of the General Assembly, as provided in G.S. 143-
26 300.2 through G.S. 143-300.6. That insurance may not provide for
27 any indemnity to be payable for any claim not covered by the above
28 cited statutes, nor for any criminal act, nor for any act committed prior
29 to the inception of insurance."

30 (d) This section is effective upon ratification.

31 —STATE EEO MONITORING

32 Sec. 6. (a) Chapter 126 of the General Statutes is amended by adding a new
33 section to read:

34 "**§ 126-16.2. Equal employment opportunity monitoring; reporting.**

35 The Equal Employment Opportunity Division of the Office of State Personnel shall
36 monitor pay increases awarded to State employees by State departments, agencies, and
37 institutions in order to ensure that pay increases are granted by State departments,
38 agencies, and institutions in a nondiscriminatory manner. The Equal Employment
39 Opportunity Division shall report periodically to the State Personnel Commission
40 information relating to pay increases awarded to State employees. The Office of State
41 Personnel shall report pay increases awarded by equal employment opportunity
42 protected class categories. The State Personnel Commission shall monitor performance
43 pay increases in conjunction with monitoring hirings, promotions, demotions, and
44 separations by equal employment opportunity protected class categories."

1 (b) This section is effective upon ratification.

2 ---COMPREHENSIVE EMPLOYEE TRAINING

3 Sec. 7. G.S. 126-4(a) reads as rewritten:

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

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

- 7 (1) Position classification plans which shall provide for the classification
8 and reclassification of all positions subject to this Chapter according to
9 the duties and responsibilities of the positions.
- 10 (2) Compensation plans which shall provide for minimum, maximum, and
11 intermediate rates of pay for all employees subject to the provisions of
12 this Chapter.
- 13 (3) For each class of positions, reasonable qualifications as to education,
14 experience, specialized training, licenses, certifications, and other job-
15 related requirements pertinent to the work to be performed.
- 16 (4) Recruitment programs designed to promote public employment,
17 communicate current hiring activities within State government, and
18 attract a sufficient flow of internal and external applicants; and
19 determine the relative fitness of applicants for the respective positions.
- 20 (5) Hours and days of work, holidays, vacation, sick leave, and other
21 matters pertaining to the conditions of employment. The legal public
22 holidays established by the Commission as paid holidays for State
23 employees shall include Martin Luther King, Jr.'s, Birthday and
24 Veterans Day. The Commission shall not provide for more than 11
25 paid holidays per year except that in those years in which Christmas
26 Day falls on a Tuesday, Wednesday, or Thursday, the Commission
27 shall not provide for more than 12 paid holidays.
- 28 (6) The appointment, promotion, transfer, demotion and suspension of
29 employees.
- 30 (6a) The establishment of a comprehensive employee training system and
31 the monitoring of costs associated with the State's investment in
32 employee training and development.
- 33 (7) Cooperation with the Department of Public Education, the University
34 of North Carolina, and the Community Colleges of the State and other
35 appropriate resources in developing programs in, including but not
36 limited to, management and supervisory skills, performance
37 evaluation, specialized employee skills, accident prevention, equal
38 employment opportunity awareness, and customer service; and to
39 maintain an accredited Certified Public Manager program.
- 40 (7a) The separation of employees.
- 41 (8) The evaluation of employee performance, the granting of performance
42 salary increases, and a program of meritorious service awards.
- 43 (9) The investigation of complaints and the issuing of such binding
44 corrective orders or such other appropriate action concerning

1 employment, promotion, demotion, transfer, discharge, reinstatement,
2 and any other issue defined as a contested case issue by this Chapter in
3 all cases as the Commission shall find justified.

4 (10) Programs of safety, health, employee assistance, productivity
5 incentives, equal opportunity and such other programs and procedures
6 as may be necessary to promote efficiency of administration and
7 provide for a fair and modern system of personnel administration. This
8 subdivision may not be construed to authorize the establishment of an
9 incentive pay program.

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

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

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

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

18 (15) Recognition of State employees, public personnel management, and
19 management excellence.

20 Such policies and rules shall not limit the power of any elected or appointed
21 department head, in his discretion and upon his determination that it is in the best
22 interest of the Department, to transfer, demote, or separate a State

23 (1) Employee in a grade 60 or lower position who has not been
24 continuously employed by the State of North Carolina for the
25 immediate 12 preceding months;

26 (2) Employee in a grade 61 to grade 65 position who has not been
27 continuously employed by the State of North Carolina for the
28 immediate 36 preceding months;

29 (3) Employee in a grade 66 to grade 70 position who has not been
30 continuously employed by the State of North Carolina for the
31 immediate 48 preceding months; or

32 (4) Employee in a grade 71 or higher position who has not been
33 continuously employed by the State of North Carolina for the
34 immediate 60 preceding months."

35 (b) Article 1 of Chapter 126 of the General Statutes is amended by adding a new
36 section to read:

37 **"§ 126-3.1. Comprehensive employee training system.**

38 (a) The Office of State Personnel shall coordinate a comprehensive statewide
39 system for the training of State employees including training programs, courses, and
40 materials for management and supervisory training, Equal Employment Opportunity
41 training, computer training, and other areas of employee training that are of statewide
42 applicability. The system of comprehensive employee training shall be administered so
43 as to enhance the performance of employees and the effectiveness of State departments,
44 agencies, and institutions.

1 (b) The Office of State Personnel shall identify the training and development
2 needs of State employees by performing an annual training needs analysis in
3 conjunction with State agencies that includes the study of the job requirements of the
4 respective positions held by State employees, the forecasting of changes in job
5 requirements, the determination of skills and essential job functions, and the assessment
6 of the status of employee training.

7 (c) Each State department, agency, and institution shall provide to their
8 respective employees training programs, courses, and materials of special relevance to
9 the performance of job requirements within the department, agency, or institution.

10 (d) State employee training programs shall be evaluated by the Office of State
11 Personnel as to content, course administration, facilities, and trainers in order to ensure
12 that training programs are needed for current job requirements. Each State department,
13 agency, and institution shall provide to the Office of State Personnel information related
14 to the costs of employee training programs, courses, and materials including the salaries
15 of trainers, the cost of supplies and materials, facilities costs, and the fees charged for
16 training programs and courses."

17 (c) G.S. 126-5(c5) reads as rewritten:

18 "(c5) Notwithstanding any other provision of this Chapter, Article 14 of this
19 Chapter and G.S. 126-4(6a) shall apply to all State employees, public school employees,
20 and community colleges employees."

21 (d) This section is effective upon ratification.