

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2144

Short Title: Employees Must Request Writing.

(Public)

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

Referred to: Public Employees.

May 29, 1990

A BILL TO BE ENTITLED

1 AN ACT TO PLACE THE BURDEN ON THE STATE EMPLOYEE TO REQUEST
2 WRITTEN JUSTIFICATION FROM THE EMPLOYEE'S SUPERVISOR WHEN
3 THAT EMPLOYEE IS ELIGIBLE FOR A PERFORMANCE INCREASE BUT
4 DOES NOT RECEIVE A PERFORMANCE INCREASE OR WHEN THAT
5 EMPLOYEE DOES NOT RECEIVE AN INCREASE OF A MIDRANGE VALUE
6 WITHIN THE ALLOWABLE RANGE.
7

8 The General Assembly of North Carolina enacts:

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

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

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

18 (2) To be eligible to distribute its share of the performance increase
19 allocation, a department, agency, or institution shall have an operative
20 performance appraisal system which has been approved by the State
21 Personnel Director. The performance appraisal system adopted shall
22 use a rating scale of at least five levels, with the top three levels
23 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~~ can justify the decision not to award the performance
14 increase. The supervisor shall give an employee written justification
15 of his decision not to award the performance increase when the
16 employee requests written justification. An employee whose
17 performance does not exceed performance requirements shall not
18 receive a performance increase.

19 (5) The State Personnel Director shall set the performance increase ranges
20 allowable for levels of performance that exceed performance
21 requirements. ~~Absent the supervisor's written justification, an employee~~
22 ~~whose performance exceeds expectations shall receive a percentage increase~~
23 ~~equal to the midrange value for his rating level. With the supervisor's~~
24 ~~written justification, an individual employee's increase may vary above or~~
25 ~~below the midrange value within the allowable range.~~ An employee whose
26 performance exceeds expectations shall receive a percentage increase
27 equal to the midrange value for his rating, unless the supervisor can
28 justify an increase above or below the midrange value within the
29 allowable range. The supervisor shall give an employee written
30 justification of his decision to award an increase above or below the
31 midrange value when the employee requests written justification. A
32 supervisor's performance appraisal plan, evaluation standards for each
33 employee, and individual employee ratings and recommended
34 performance increase amounts, with justification, shall be reviewed
35 and approved by that supervisor's next higher level supervisor.

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 (8) The State Personnel Director shall monitor the performance appraisal
11 system and performance increase distribution of each employing unit
12 within each department, agency, and institution. Each department,
13 agency, and institution shall submit to the Director annual reports
14 which shall include data on the demographics of performance ratings,
15 the frequency of evaluations, the performance pay increases awarded,
16 and the implementation schedule for performance pay increases. The
17 Director shall analyze the data to ensure that performance increases are
18 distributed fairly within each department, agency, and institution and
19 across all departments, agencies, and institutions of State government
20 and shall report back to each department, agency, and institution on its
21 appraisal and distribution performance.

22 (9) The State Personnel Director shall report annually on the performance
23 pay program to the Commission. The report shall evaluate the
24 performance of each department, agency, and institution in the
25 administration of its appraisal system and the distribution of
26 performance increases within each department, agency, and institution
27 and across State government. The report shall include
28 recommendations for improving the performance appraisal system and
29 alleviating inequities. Copies of the report shall be sent to the State
30 Auditor.

31 (10) The Commission shall report annually to the Governor, the Lieutenant
32 Governor, the President Pro Tempore of the Senate, the Speaker of the
33 House of Representatives, and the Standing Personnel Committees of
34 the House and the Senate. The Commission report shall include an
35 evaluation of the administration of the appraisal system and
36 distribution of performance increases by each department, agency, and
37 institution. The State Personnel Director shall recommend to the
38 General Assembly for its approval sanctions to be levied against
39 departments, agencies, and institutions that have deficient appraisal
40 systems or that do not link performance increases to performance.
41 These sanctions may include withholding performance increases from
42 the managers and supervisors of individual employing units of
43 departments, agencies, and institutions in which discrepancies exist."

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