

GENERAL ASSEMBLY OF NORTH CAROLINA  
1991 SESSION

CHAPTER 65  
SENATE BILL 10

AN ACT TO MAKE CERTAIN TECHNICAL AND CLARIFYING AMENDMENTS  
TO CHAPTER 126 OF THE GENERAL STATUTES REGARDING THE STATE  
PERSONNEL SYSTEM.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-4 reads as rewritten:

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

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

- (1) ~~A position~~ Position classification plan ~~plans~~ which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) ~~A compensation plan~~ Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable ~~qualifications, as to age, character, physical condition, and other attributes~~ qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed.
- (4) ~~A recruitment program to attract applicants to public employment~~ Recruitment programs designed to promote public employment, communicate current hiring activities within State government, and attract a sufficient flow of internal and external applicants; and determine the relative fitness of applicants for the respective positions.
- (5) Hours and days of work, holidays, vacation, sick leave, and other matters pertaining to the conditions of employment. The legal public holidays established by the Commission as paid holidays for State employees shall include Martin Luther King, Jr.'s, Birthday ~~for all years after 1987.~~ and Veterans Day. ~~Provided, however, that the Commission shall not provide for a greater number of total paid holidays than were established for the year 1986. The Commission shall not delete Veterans Day as a holiday.~~ more than 11 paid holidays a year.
- (6) ~~The appointment, promotion, transfer, demotion and suspension.~~ suspension of employees.

- (7) Cooperation with the Department of Public Instruction, ~~the State Board of Education, the Board of Governors of Education, the University of North Carolina, and the colleges and universities~~ Community Colleges of the State and other appropriate resources in developing pre-service and in-service training programs. programs in, including but not limited to, management and supervisory skills, performance evaluation, specialized employee skills, accident prevention, equal employment opportunity awareness, and customer service; and to maintain an accredited Certified Public Manager program.
- (7a) The separation of employees.
- (8) The evaluation of employee performance, the granting of ~~salary increments,~~ performance salary increases, and a program of meritorious ~~seriee~~-service awards.
- (9) The investigation of complaints and the issuing of such binding corrective orders or such other appropriate action concerning employment, promotion, demotion, transfer, discharge, ~~and reinstatement~~-reinstatement, and any other issue defined as a contested case issue by this Chapter in all cases as the Commission shall find justified.
- (10) ~~Such~~-Programs of safety, health, employee assistance, productivity incentives, equal opportunity and such other programs and procedures as may be necessary to promote efficiency of administration and provide for a fair and ~~reasonable~~-modern system of personnel administration. This subdivision may not be construed to authorize the establishment of an incentive pay program.
- (11) In cases where the Commission finds discrimination or orders reinstatement or back pay whether (i) heard by the Commission or (ii) appealed for limited review after settlement or (iii) resolved at the agency level, the assessment of reasonable attorneys' fees and witnesses' fees against the State agency involved.
- (14) The implementation of G.S. 126-5(e).
- (15) Recognition of State employees, public personnel management, and management excellence.

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

- (1) Employee in a grade 60 or lower position who has not been continuously employed by the State of North Carolina for the immediate 12 preceding months;
- (2) Employee in a grade 61 to grade 65 position who has not been continuously employed by the State of North Carolina for the immediate 36 preceding months;

- (3) Employee in a grade 66 to grade 70 position who has not been continuously employed by the State of North Carolina for the immediate 48 preceding months; or
- (4) Employee in a grade 71 or higher position who has not been continuously employed by the State of North Carolina for the immediate 60 preceding months."

Sec. 2. G.S. 126-5(e) reads as rewritten:

"(e) An exempt employee may be transferred, demoted, or separated from his position by the department head authorized to designate the exempt position except:

- (1) When an employee who has the minimum service requirements described in subsection (c)(1) above but less than 10 years of cumulative service in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall have priority to any position that becomes available for which the employee is qualified, according to rules and regulations regulating and defining priority as promulgated by the State Personnel Commission; or
- (2) When an employee who has 10 years or more cumulative service, including the immediately preceding 12 months, in subject positions prior to placement in an exempt position is removed from an exempt position, for reasons other than just cause, the employee shall be reassigned to a subject position within the same department or agency, or if necessary within another agency, and within a 35 mile radius of the exempt position, at the same grade and ~~step salary, including all across-the-board increases since placement in the position designated as exempt,~~ as his most recent subject position.

~~This subsection shall apply to employees removed from exempt positions after July 1, 1985."~~

Sec. 3. G.S. 126-6 reads as rewritten:

**"§ 126.6.Policies continued; powers, etc., transferred.**

~~(a) All classifications, grades, salaries, conditions of work, and rules and regulations established prior to July 1, 1965, by the State Personnel Council, the State Personnel Director or the North Carolina Merit System Council shall remain in force until amended, repealed, or superseded by the Board, acting under the authority of this Chapter.~~

~~(b) The State Personnel Board and the State Personnel Director herein provided shall be the successors of the State Personnel Council, the State Personnel Director, North Carolina Merit System Council, and the Merit System Supervisor. All records and property in the custody of these agencies and individuals are hereby transferred to the State Personnel Board and the State Personnel Department, effective July 1, 1965.~~

~~(c) Any status of employment or privilege previously attained by an employee in accordance with the State Personnel Act or the State Merit System Act shall continue under the provisions of this Chapter."~~

Sec 4. G.S. 126-7.1(c) reads as rewritten:

"(c) If a State ~~employee~~: employee subject to this section:

- (1) Applies for another position of State employment; and
- (2) Has substantially equal qualifications as an applicant who is not a State employee

then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees."

Sec. 5. G.S. 126-11(d) reads as rewritten:

"(d) In order to define 'substantially equivalent,' the State Personnel Commission is authorized to promulgate rules and regulations to implement the federal merit system standards and these regulations at a minimum shall include: recruitment and selection of employees; position classification; pay administration; training; employee relations; equal employment opportunity; and records and reports."

Sec. 6. G.S. 126-16 reads as rewritten:

**"§ 126-16. Equal opportunity for employment and compensation by State departments and agencies and local political subdivisions.**

All State departments and agencies and all local political subdivisions of North Carolina shall give equal opportunity for employment and compensation, without regard to race, religion, color, creed, national origin, sex, age, or handicapping condition as defined in G.S. 168A-3 to all persons otherwise qualified, except where specific age, sex or physical requirements constitute bona fide occupational qualifications necessary to proper and efficient administration. This section with respect to equal opportunity as to age shall be limited to individuals who are at least 40 years of ~~age but less than 70 years of age.~~ age."

Sec. 7. G.S. 126-35(a) reads as rewritten:

**"§ 126-35. Written statement of reason for disciplinary action.**

(a) No permanent employee subject to the State Personnel Act shall be discharged, suspended, or ~~reduced in pay or position, demoted for disciplinary reasons,~~ except for just cause. In cases of such disciplinary action, the employee shall, before the action is taken, be furnished with a statement in writing setting forth in numerical order the specific acts or omissions that are the reasons for the disciplinary action and the employee's appeal rights. The employee shall be permitted 15 days from the date the statement is delivered to appeal to the head of the department. ~~A copy of the written statement given the employee and the employee's appeal shall be filed by the department with the State Personnel Director within five days of their delivery.~~ However, an employee may be suspended without warning for causes relating to personal conduct detrimental to State service, pending the giving of written reasons, in order to avoid undue disruption of work or to protect the safety of persons or property or for other serious reasons. The employee, if he is not satisfied with the final decision of the head of the department, or if he is unable, within a reasonable period of time, to obtain a final decision by the head of the department, may appeal to the State Personnel Commission. Such appeal shall be filed not later than 30 days after receipt of notice of the department head's decision."

Sec. 8. G.S. 126-74 reads as rewritten:

**"§ 126-74. Work Options Program established.**

There is established a Work Options Program for State employees in the ~~Division~~ Office of State Personnel to be administered by the State Personnel Commission. The State Personnel Director shall assign an employee within the ~~Division-Office~~ of State Personnel, to be known as the State Work Options Coordinator, to direct the Work Options Program as established in this Article."

Sec. 9. G.S. 126-83 reads as rewritten:

**"§ 126-83. Exceptions.**

Notwithstanding G.S. 126-5, and notwithstanding provisions in that section that only certain Articles of this Chapter apply to some employees, this Article applies to all persons covered by this Chapter except those exempted by G.S. 126-5(c) (2), G.S. 126-5(c)(3), G.S. 126-5(c)(4), G.S. 126-5(c1), G.S. 126-5(c2), or G.S. 126-5(c3), but this Article does not apply to those persons covered by G.S. 126-5(a)(2). G.S. 128-15 shall apply to those persons exempted from coverage of this Article, but shall not apply to any person covered by this Article."

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of May, 1991.

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James C. Gardner  
President of the Senate

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Daniel Blue, Jr.  
Speaker of the House of Representatives