

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 761

Short Title: Cost of Living Increase Priority.

(Public)

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Sponsors: Senator Sands.

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Referred to: State Personnel and State Government.

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April 24, 1991

A BILL TO BE ENTITLED

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

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  
24 the results of the compensation survey to the Appropriations Committees of the House

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