

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 15
Education/Higher Education Committee Substitute Adopted 5/8/95

Short Title: Streamline State Education Agency-2.

(Public)

Sponsors:

Referred to:

January 26, 1995

A BILL TO BE ENTITLED
AN ACT TO FURTHER STREAMLINE THE STATUTES SO AS TO CLARIFY THE
CONSTITUTIONAL ROLE OF THE STATE BOARD OF EDUCATION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-5(d) reads as rewritten:

"(d) (1) General. – The Governor may designate as exempt
policymaking positions, as provided below, in each of the following
departments:

- a. Department of Administration;
- b. Department of Commerce;
- c. Department of Correction;
- d. Department of Crime Control and Public Safety;
- e. Department of Cultural Resources;
- f. Department of Human Resources;
- g. Department of Environment, Health, and Natural Resources;
- h. Department of Revenue; and
- i. Department of Transportation.

The Secretary of State, the Auditor, the Treasurer, the Attorney General,
~~the Superintendent of Public Instruction,~~ the Commissioner of Agriculture,

1 the Commissioner of Insurance, and the Labor Commissioner may
2 designate as exempt policymaking positions, as provided below, in their
3 respective offices. The State Board of Education may designate as
4 exempt policymaking positions, as provided below, in the Department
5 of Public Instruction.

6 (2) Number. – The number of policymaking positions designated as exempt
7 in each department or office listed in subsection (d)(1), except the
8 Department of Commerce, shall be limited to one and two-tenths
9 percent (1.2%) of the number of full-time positions in the department or
10 office, or 30 positions, whichever is greater. The Governor may
11 designate 85 policymaking positions as exempt in the Department of
12 Economic and Community Development. Provided, however, that the
13 ~~Governor or Governor~~, elected department head-head, or State Board of
14 Education may request that additional policymaking positions be
15 designated as exempt. The request shall be made by sending a list of
16 policymaking positions that exceed the limit imposed by this subsection
17 to the Speaker of the North Carolina House of Representatives and the
18 President of the North Carolina Senate. A copy of the list also shall be
19 sent to the State Personnel Director. The General Assembly may
20 authorize all, or part of, the additional policymaking positions to be
21 designated as exempt. If the General Assembly is in session when the
22 list is submitted and does not act within 30 days after the list is
23 submitted, the list shall be deemed approved by the General Assembly,
24 and the policymaking positions shall be designated as exempt. If the
25 General Assembly is not in session when the list is submitted, the 30-
26 day period shall not begin to run until the next date that the General
27 Assembly convenes or reconvenes, other than for a special session
28 called for a specific purpose not involving the approval of the list of
29 additional positions to be designated as exempt; the policymaking
30 positions shall not be designated as exempt during the interim.

31 (3) Letter. – These positions shall be designated in a letter to the State
32 Personnel Director, the Speaker of the House of Representatives, and
33 the President of the Senate by May 1 of the year in which the oath of
34 office is administered to each Governor unless the provisions of
35 subsection (d)(4) apply.

36 (4) Vacancies. – In the event of a vacancy in the Office of Governor or in
37 the office of a member of the Council of State, the person who succeeds
38 to or is appointed or elected to fill the unexpired term shall make such
39 designations in a letter to the State Personnel Director, the Speaker of
40 the House of Representatives, and the President of the Senate within
41 120 days after the oath of office is administered to that person. In the
42 event of a vacancy in the Office of Governor, the State Board of
43 Education shall make these designations in a letter to the State

1 Personnel Director, the Speaker of the House of Representatives, and
2 the President of the Senate within 120 days after the oath of office is
3 administered to the Governor.

4 (5) Creation, Transfer, or Reorganization. – ~~The Governor or Governor,~~
5 electd department head-head, or State Board of Education may
6 designate as exempt a policymaking position that is created or
7 transferred to a different department, or is located in a department in
8 which reorganization has occurred, after May 1 of the year in which the
9 oath of office is administered to the Governor. The designation must be
10 made in a letter to the State Personnel Director, the Speaker of the North
11 Carolina House of Representatives, and the President of the North
12 Carolina Senate within 120 days after such position is created,
13 transferred, or in which reorganization has occurred.

14 (6) Reversal. – Subsequent to the designation of a policymaking position as
15 exempt as hereinabove provided, the status of the position may be
16 reversed and made subject to the provisions of this Chapter by the
17 ~~Governor or Governor,~~ by an electd department head-head, or by the
18 State Board of Education in a letter to the State Personnel Director, the
19 Speaker of the North Carolina House of Representatives, and the
20 President of the North Carolina Senate.

21 (7) Hearing Officers. – Except as otherwise specifically provided by this
22 section, no employee, by whatever title, whose primary duties include
23 the power to conduct hearings, take evidence, and enter a decision based
24 on findings of fact and conclusions of law based on statutes and legal
25 precedents shall be designated as exempt. This subdivision shall apply
26 beginning July 1, 1985, and no list submitted after that date shall
27 designate as exempt any employee described in this subdivision."

28 Sec. 2. Notwithstanding the provisions of G.S. 126-5(d), the State Board of
29 Education may designate as exempt a policymaking position that is located in the
30 Department of Public Instruction on or after the effective date of this act. The
31 designation must be made in a letter to the State Personnel Director, the Speaker of the
32 House of Representatives, and the President of the Senate within 120 days after the
33 effective date of this act.

34 Sec. 3. This act is effective upon ratification.