

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 716
Committee Substitute Favorable 6/1/05
Committee Substitute #2 Favorable 8/23/05
Fourth Edition Engrossed 8/23/05**

Short Title: Study Emp'ee Mediation/OAH Time Frame.

(Public)

Sponsors:

Referred to:

March 17, 2005

A BILL TO BE ENTITLED

1
2 AN ACT TO ESTABLISH THE LEGISLATIVE STUDY COMMISSION ON THE
3 STATE EMPLOYEE GRIEVANCE PROCESS AND TO SET A TIME LIMIT
4 FOR THE OFFICE OF ADMINISTRATIVE HEARINGS IN DISPOSING OF
5 CONTESTED CASES UNDER G.S. 126-34.1.

6 The General Assembly of North Carolina enacts:

7 **SECTION 1.1.** There is established the Legislative Study Commission on
8 the State Employee Grievance Process. The Study Commission shall study the use of
9 mediation as a means of resolving and streamlining the review of grievances filed by
10 State employees and applicants for State employment. In conducting the study, the
11 Commission shall consider the following issues:

- 12 (1) The results of the pilot mediation program conducted by the Office of
13 State Personnel.
- 14 (2) The use of mediation as a dispute resolution mechanism by State
15 agencies in non-personnel cases, the court system, and other states.
- 16 (3) The effectiveness of the current internal grievance process in resolving
17 employee disputes and preventing grievances from being appealed.
- 18 (4) The use of mediation either in lieu of, or in addition to, any of the
19 existing steps in the current grievance process to streamline the
20 process.
- 21 (5) The establishment of time limits for the grievance process, with and
22 without mediation, and the qualifications and selection of mediators.
- 23 (6) The productivity costs associated with the current grievance process
24 and whether mediation is an effective method of reducing those costs.
- 25 (7) The extent to which employees perceive the current system as fair and
26 neutral.

1 (8) The number of State employee grievance cases appealed to the Office
2 of Administrative Hearings and the causes of any delays in the process
3 of hearing and deciding those cases.

4 (9) Any other issues the Commission considers relevant.

5 **SECTION 1.2.** The Commission shall consist of 16 members appointed as
6 follows:

7 (1) Four members of the House of Representatives appointed by the
8 Speaker of the House of Representatives.

9 (2) Four members of the Senate appointed by the President Pro Tempore
10 of the Senate.

11 (3) The Director of the Office of State Personnel or his designee.

12 (4) The Chief Administrative Law Judge and Director of the Office of
13 Administrative Hearings or his designee.

14 (5) A representative of the State Employees Association of North Carolina
15 appointed by the Speaker of the House of Representatives.

16 (6) A representative of the Department of Justice appointed by the
17 President Pro Tempore of the Senate upon the recommendation of the
18 Attorney General.

19 (7) A representative of a Historically Black State University appointed by
20 the Speaker of the House of Representatives.

21 (8) A representative of The University of North Carolina appointed by the
22 President Pro Tempore of the Senate.

23 (9) A representative of a local government appointed by the Speaker of the
24 House of Representatives upon the recommendation of the Association
25 of County Commissioners.

26 (10) A representative of a State agency or department appointed by the
27 President Pro Tempore of the Senate upon the recommendation of the
28 Governor.

29 **SECTION 1.3.** The Speaker of the House of Representative shall designate a
30 cochair, and the President Pro Tempore of the Senate shall designate a cochair for the
31 Commission. The Commission may meet at any time upon the joint call of the cochairs.
32 Vacancies on the Commission shall be filled by the same appointing authority as made
33 the initial appointment.

34 **SECTION 1.4.** While in the discharge of its official duties, the Commission
35 may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through
36 G.S. 120-19.4. The Commission may contract for professional, clerical, or consultant
37 services as provided by G.S. 120-32.02.

38 **SECTION 1.5.** Subject to the approval of the Legislative Services
39 Commission, the Commission may meet in the Legislative Building or the Legislative
40 Office Building. The Legislative Services Commission, through the Legislative Services
41 Officer, shall assign professional and clerical staff to assist in the work of the
42 Commission. Clerical staff shall be furnished to the Commission through the offices of
43 the House of Representatives and Senate Supervisors of Clerks. Members of the

1 Commission shall receive subsistence and travel expenses at the rates set forth in
2 G.S. 120-3.1, 138-5, or 138-6, as appropriate.

3 **SECTION 1.6.** The Commission shall submit a final report of its findings
4 and recommendations, including any legislative recommendations, to the 2005 General
5 Assembly upon the convening of the 2006 Regular Session. Upon the filing of its final
6 report, the Commission shall terminate.

7 **SECTION 1.7.** From the funds appropriated to the General Assembly, the
8 Legislative Services Commission shall allocate funds for the expenses of the
9 Commission established by this act.

10 **SECTION 2.** G.S. 126-34.1 is amended by adding a new subsection to read:

11 "(f) The Office of Administrative Hearings must conduct a contested case hearing
12 and render a decision on cases filed under this section no later than 210 days, not
13 including the number of days that a contested case has been delayed at the request of the
14 State employee, from the date the case was filed with the Office of Administrative
15 Hearings."

16 **SECTION 3.** This act is effective when it becomes law and applies to State
17 employee grievances that arise on or after that date.