

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1989**

**S**

**2**

SENATE BILL 1345  
State Personnel Committee Substitute Adopted 6/28/90

Short Title: Various Changes to State Personnel Act.

(Public)

---

Sponsors:

---

Referred to:

---

May 22, 1990

A BILL TO BE ENTITLED

AN ACT TO MAKE VARIOUS CHANGES TO THE STATE PERSONNEL ACT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-7 reads as rewritten:

"§ 126-7. Compensation of State employees. (a) It is the policy of the State to compensate its employees at a level sufficient to encourage excellence of performance and to maintain the labor market competitiveness necessary to recruit and retain a competent work force. To this end, salary increases to State employees shall be based, in part, on each individual employee's job performance and, in part, on general increases given to all State employees.

(b) To guide the Governor and the General Assembly in making appropriations to further the compensation policy of the State, the State Personnel Commission shall conduct annual compensation surveys. The Commission shall determine the percent of funds appropriated for salary increases to be reserved for a general increase for all State employees and the percent to be reserved for performance-based increases for eligible employees. The Commission shall present its recommendation on the percentages and the results of the compensation survey to the Appropriations Committees of the House and Senate no later than two weeks after the convening of the legislature in odd years and May 1st, of even years. The amount reserved for performance increases shall not be less than twenty-five percent (25%) nor more than seventy-five percent (75%) of the total allocation.

(c) Performance increases shall be based on performance appraisals of all employees conducted by each department, agency, and institution. The State Personnel

1 Commission, under the authority of G.S.126-4(8), shall adopt policy and regulations for  
2 performance appraisal. The policy and regulations shall include the following:

3 (1) The performance appraisal system of each department, agency, or  
4 institution shall be designed and administered to ensure that  
5 performance increases are distributed fairly and reward only  
6 performance that exceeds performance requirements.

7 (2) To be eligible to distribute its share of the performance increase  
8 allocation, a department, agency, or institution shall have an operative  
9 performance appraisal system which has been approved by the State  
10 Personnel Director. The performance appraisal system adopted shall  
11 use a rating scale of ~~at least five levels, with the top three levels qualifying~~  
12 ~~for performance increases, and of:~~

13 a. Five levels, with the top two levels qualifying for performance  
14 increases; or

15 b. Other than five levels, with the levels qualifying for  
16 performance increases to be designated by the State Personnel  
17 Commission, for those job classifications in those employing  
18 units where a department, agency, or institution demonstrates to  
19 the State Personnel Commission that some number of levels  
20 other than five would be appropriate, and the State Personnel  
21 Commission, after conducting a public hearing, determines that  
22 a rating scale of other than five levels is more appropriate than  
23 five levels for a particular job classification within a particular  
24 employing unit.

25 There shall be a presumption that a five-level system is the most  
26 appropriate system, and the department, agency, or institution must  
27 demonstrate with clear and convincing evidence that a different system  
28 is more appropriate. The performance appraisal system adopted shall  
29 adhere to modern personnel management techniques and practices in  
30 common use in the public and private sectors. Departments, agencies,  
31 and institutions with existing performance appraisal systems which use  
32 a rating scale which is not consistent with the five-level system  
33 described above shall have until July 1, 1991, to bring their systems  
34 into compliance with this subsection.

35 (3) The State Personnel Director shall help departments, agencies, and  
36 institutions to establish and administer their performance appraisal  
37 systems and shall provide initial and ongoing training in performance  
38 appraisal and performance system administration.

39 (4) An employee whose performance exceeds performance requirements  
40 shall receive a performance increase unless the employee's supervisor  
41 justifies in writing to the employee the decision not to award the  
42 performance increase. An employee whose performance does not  
43 exceed performance requirements shall not receive a performance  
44 increase. Standards for performance and standards for performance

1            pay increases may be established for each department, agency, or  
2            institution. These standards may not set limits so as to preclude an  
3            employee whose performance exceeds performance requirements from  
4            consideration for an increase.

- 5            (5)    The State Personnel Director shall set the performance increase ranges  
6            allowable for levels of performance that exceed performance  
7            requirements. ~~Absent the supervisor's written justification, an employee~~  
8            ~~whose performance exceeds expectations shall receive a percentage increase~~  
9            ~~equal to the midrange value for his rating level. With the supervisor's~~  
10           ~~written justification, an individual employee's increase may vary above or~~  
11           ~~below the midrange value within the allowable range. An employee whose~~  
12           performance exceeds expectations shall receive a percentage increase  
13           equal to the midrange value for his rating, unless the supervisor can  
14           justify an increase above or below the midrange value within the  
15           allowable range. The supervisor shall give an employee written  
16           justification of his decision to award an increase above or below the  
17           midrange value when the employee requests written justification. A  
18           supervisor's performance appraisal plan, evaluation standards for each  
19           employee, and individual employee ratings and recommended  
20           performance increase amounts, with justification, shall be reviewed  
21           and approved by that supervisor's next higher level supervisor.

- 22           (5a)    If an employee is otherwise eligible for a performance increase and is  
23           at the top of a pay scale, the employee shall receive a performance  
24           increase in the form of a performance bonus. This performance bonus  
25           shall be a one-time, lump-sum award paid separately from any other  
26           payment to the employee for the year. Such award shall not serve to  
27           increase the base pay of such employee. An award of this bonus  
28           pursuant to this subdivision does not affect:

29           a.        The value of the top of any pay scale; and

30           b.        The employee's current salary, which will remain at the top of  
31           the pay scale.

32           Except as provided in this subdivision, all other provisions of this  
33           subsection shall apply to an employee at the top of a pay scale.

- 34           (6)    The State Personnel Director may suspend any performance increase  
35           that does not appear to meet the intent of the provisions of the  
36           performance pay system and require the originating department,  
37           agency, or institution to reconsider or justify the increase.

- 38           (7)    An employee who disputes the fairness of his performance evaluation  
39           or the sufficiency of the increase awarded or who believes that he was  
40           unfairly denied a performance increase shall first discuss the problem  
41           with his supervisor. Appeals of the supervisor's decision shall be made  
42           only to the grievance committee or internal performance review board  
43           of the department, agency, or institution which shall make a  
44           recommendation to the head of the department, agency, or institution

1 for final decision. The State Personnel Director shall help a  
2 department, agency, or institution establish an internal performance  
3 review board or, if it includes employee members, to use its existing  
4 grievance committee to hear performance pay disputes.  
5 Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-  
6 34, performance pay disputes, including disputes about individual  
7 performance appraisals, shall not be considered contested case issues.

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

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

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

42 (d) The provisions of subsections (a), (b), and (c) shall not affect the system of  
43 longevity payments established by the State Personnel Commission.

1       ~~(e) Nothing in this section shall require or authorize any department, agency, or~~  
2 ~~institution to establish a limitation on the number or percentage of employees who are~~  
3 ~~eligible under this section to receive performance increases."~~

4           Sec. 2. Nothing in this act shall be construed to obligate the General  
5 Assembly to appropriate funds to implement the provisions of this act.

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