

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1997

SESSION LAW 1998-181
HOUSE BILL 1469

AN ACT REORGANIZING THE STATE PERSONNEL COMMISSION AND AUTHORIZING THE CHAIR OF THE STATE PERSONNEL COMMISSION TO APPOINT PANELS OF ITS MEMBERS TO MAKE RECOMMENDATIONS TO THE FULL COMMISSION REGARDING THE FINAL DECISION IN CONTESTED CASES AND TO MAKE CHANGES TO THE EMPLOYEE INCENTIVE BONUS PROGRAM.

The General Assembly of North Carolina enacts:

Section 1.(a) G.S. 126-2(b) reads as rewritten:

"(b) The Commission shall consist of ~~seven members who shall be~~ nine members, seven appointed by the Governor ~~on July 1, 1965, or as soon thereafter as is practicable.~~ Two and two appointed by the General Assembly. Of the members of the Commission appointed by the Governor, two shall be chosen from employees of the State subject to the provisions of this Chapter; two members shall be appointed, of which one shall be an employee of local government subject to the provisions of this Chapter, from a list of individuals nominated by the North Carolina association of county commissioners; two members shall be individuals actively engaged in the management of a private business or industry; and one member shall be appointed from the public at large. Of the members of the Commission appointed by the General Assembly, two shall be attorneys licensed to practice law in North Carolina, one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate. Of the initial members of the Commission, Commission appointed by the Governor, two shall be appointed to serve for terms of two years, two shall be appointed to serve for terms of four years, and three shall be appointed to serve for terms of six years. Their successors shall be appointed by the Governor for terms of six years. The initial two attorney members appointed by the General Assembly shall serve terms expiring June 30, 2004; the terms of subsequent appointees shall be six years. Any vacancy occurring prior to the expiration of a term shall be filled by appointment for the unexpired term."

(b) G.S. 126-2 as amended by subsection (a) of this section reads as rewritten:

"§ 126-2. State Personnel Commission.

(a) There is hereby established the State Personnel Commission (hereinafter referred to as 'the Commission').

(b) ~~The Commission shall consist of nine members, two appointed by the Governor and two appointed by the General Assembly. Of the members of the Commission appointed by the Governor, two shall be chosen from employees of the State subject to the provisions of this Chapter; two members shall be appointed, of which one shall be an employee of local government subject to the provisions of this Chapter, from a list of individuals nominated by the North Carolina association of county commissioners; two members shall be individuals actively engaged in the management of a private business or industry; and one member shall be appointed from the public at large. Of the members of the Commission appointed by the General Assembly, two shall be appointed as follows:~~

- (1) Two members shall be attorneys licensed to practice law in North Carolina, Carolina appointed by the General Assembly, one of whom shall be appointed upon the recommendation of the Speaker of the House of Representatives, and one of whom shall be appointed upon the recommendation of the President Pro Tempore of the Senate.

~~Of the initial members of the Commission appointed by the Governor, two shall be appointed to serve for terms of two years, two shall be appointed to serve for terms of four years, and three shall be appointed to serve for terms of six years. Their successors shall be appointed by the Governor for terms of six years.~~

~~The initial two attorney members appointed by the General Assembly under this subdivision shall serve terms expiring June 30, 2004; the terms of subsequent appointees shall be six years. Any vacancy occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.~~

- (2) Two persons from private business or industry appointed by the Governor, both of whom shall have a working knowledge of, or practical experience in, human resources management. The initial members appointed under this subdivision shall serve terms expiring June 30, 2003; the terms of subsequent appointees shall be six years.
- (3) Two State employees subject to the State Personnel Act serving in nonexempt positions, appointed by the Governor. One employee shall serve in a State government position having supervisory duties, and one employee shall serve in a nonsupervisory position. Neither employee may be a human resources professional. The Governor shall consider nominations submitted by the State Employees Association of North Carolina. The initial members appointed under this subdivision shall serve terms expiring June 30, 2001; the terms of subsequent appointees shall be six years.
- (4) Two local government employees subject to the State Personnel Act appointed by the Governor upon recommendation of the North Carolina Association of County Commissioners, one a nonsupervisory local employee and one a supervisory local employee. Neither local government employee may be a human resources professional. The initial members appointed under this subdivision shall serve terms

expiring June 30, 2003; the terms of subsequent appointees shall be for six years.

- (5) One member of the public at large appointed by the Governor. The initial member appointed under this subdivision shall serve for a term expiring June 30, 2001; the terms of subsequent appointees shall be for six years.

~~(c) Members of the Commission appointed after February 1, 1976, shall be appointed subject to confirmation by the General Assembly of North Carolina. If the General Assembly is not in session when an appointment is made, the appointee shall temporarily exercise all of the powers of a confirmed member until the convening of the next legislative session. If the General Assembly does not act on confirmation of a proposed member within 30 legislative days of the submission of the name, the member shall be considered confirmed. If the Governor does not appoint a new member within 60 calendar days of the occurrence of a vacancy or the rejection of an appointment by the General Assembly, the remaining members of the Commission shall have the authority to fill the vacancy. may serve no more than two consecutive terms. Appointments by the General Assembly shall be made in accordance with G.S. 120-121, and vacancies in those appointments shall be filled in accordance with G.S. 120-122. Vacancies in appointments made by the Governor occurring prior to the expiration of a term shall be filled by appointment for the unexpired term.~~

~~(d) No member of the Commission may serve on a case where there would be a conflict of interest. The Governor appointing authority may at any time after notice and hearing remove any Commission member for gross inefficiency, neglect of duty, malfeasance, misfeasance, or nonfeasance in office. cause.~~

~~(e) Members of the Commission who are employees of the State subject to the provisions of this Article State or local government employees subject to the State Personnel Act shall be entitled to administrative leave without loss of pay for all periods of time required to conduct the business of the Commission.~~

~~(f) Four Six members of the Commission shall constitute a quorum.~~

~~(g) The Governor shall designate one member of the Commission as chairman-chair.~~

~~(h) The Commission shall meet quarterly, and at other times at the call of the chairman-chair."~~

Section 2. Article 1 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-4.1. Commission panels may recommend final agency decisions.

(a) The State Personnel Commission ('Commission') may make a final agency decision in a contested case brought under Article 3 of Chapter 150B of the General Statutes upon the recommendation of a panel of its members appointed by the Chair.

(b) For contested case purposes, the Chair of the Commission may appoint panels of four members, with three panelists constituting a quorum of the panel. The Chair shall make every effort to provide that each category of Commission membership enumerated in G.S. 126-2(b) shall be represented on the appointed panels.

(c) When a panel hears and makes a recommendation in a contested case, that recommendation shall then be referred to the full Commission. Upon referral, the full Commission may either:

- (1) Accept the recommendation of the panel and incorporate the panel's recommendation as the Commission's final decision; or
- (2) Reject the recommendation of the panel and make a final decision upon consideration by the full Commission."

Section 3. G.S. 120-123 is amended by adding a new subdivision to read:

"(68) The State Personnel Commission."

Section 4. The terms of members of the State Personnel Commission appointed pursuant to G.S. 126-2 as it was in effect prior to the effective date of this act, shall expire on June 30, 1999. Any vacancy occurring on the Commission prior to June 30, 1999, shall be filled in accordance with Section 1 of this act.

Section 5. G.S. 143-345.21(c) reads as rewritten:

"(c) Savings generated by suggestions and innovations shall be determined at the end of the fiscal year in which the suggestion or innovation is implemented. ~~implemented~~ or the determination may be carried over for one full fiscal year after implementation before making an award if the actual savings cannot be verified before the end of the fiscal year. Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. The savings or revenue increases realized from any suggestion or innovation implemented for less than one full fiscal year shall be annualized. Any savings realized through the State Employee Incentive Bonus Program shall be weighed against continued service to the public."

Section 6. G.S. 143-345.22(a) reads as rewritten:

"(a) If a State employee's suggestion or innovation results in a monetary savings or increased revenue to the State, the funds saved or increased shall be distributed according to the following ~~scale~~: scale or subject to guidelines as set forth by the funding source:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member may receive in excess of twenty thousand dollars (\$20,000), nor may the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000).
- (2) Thirty percent (30%) ~~to a performance bonus reserve for all current employees of the employing unit of the suggester, to be distributed according to G.S. 126-7, the Comprehensive Compensation System for State employees, or according to the performance bonus compensation system in which the suggester's employing unit participates. for all~~

current employees in the work unit, as designated by the agency head, of the employing unit of the suggester.

(3) The remainder to the General Fund for nonrecurring budget items."

Section 7. G.S. 143-345.23(b) reads as rewritten:

"(b) The duties of the agency coordinator shall include:

(1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.

(2) Responsibility for presenting, in conjunction with the agency evaluator, the plan of implementation for a suggestion or innovation to the Review Committee.

(3) Working in conjunction with the agency evaluator designated by the ~~State Agency~~ Coordinator for a particular suggestion or innovation.

An agency may have more than one coordinator if required to provide sufficient services to State employees."

Section 8. Section 1(a) of this act is effective when it becomes law. Section 1(b) of this act becomes effective June 30, 1999. Section 2 of this act shall not be effective until the appointments are made in accordance with G.S. 126-2(b) as amended by Section 1(a) of this act. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 7th day of October, 1998.

s/ Dennis A. Wicker
President of the Senate

s/ Harold J. Brubaker
Speaker of the House of Representatives

s/ James B. Hunt, Jr.
Governor

Approved 11:45 a.m. this 13th day of October, 1998