

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 275

Short Title: Decentralize Some OSP Functions.

(Public)

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Sponsors: Representatives Sherrill; Berry, Cansler, Morris, Rayfield, and Thompson.

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Referred to: State Government.

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February 19, 1997

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE DUPLICATION OF WORK BETWEEN THE OFFICE OF  
2 STATE PERSONNEL AND OTHER AGENCIES, DEPARTMENTS, AND  
3 INSTITUTIONS BY THE DECENTRALIZATION OF CERTAIN FUNCTIONS  
4 FROM THE OFFICE OF STATE PERSONNEL TO THOSE AGENCIES,  
5 DEPARTMENTS, AND INSTITUTIONS.  
6

7 The General Assembly of North Carolina enacts:

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

9 **"§ 126-1. Purpose of Chapter; application to local employees.**

10 It is the intent and purpose of this Chapter to establish for the government of the State  
11 a system of personnel administration under the Governor, based on accepted principles of  
12 personnel administration and applying the best methods as evolved in government and  
13 industry. It is also the intent of this Chapter that this system of personnel administration  
14 shall apply to local employees paid entirely or in part from federal funds, except to the  
15 extent that local governing boards are authorized by this Chapter to establish local rules,  
16 local pay plans, and local personnel systems. It is also the intent of this Chapter to make  
17 provisions for a decentralized system of personnel administration, where appropriate, and  
18 without additional cost to the State, with the State Personnel Commission as the policy  
19 and rule-making body. The Office of State Personnel shall make recommendations for  
20 policies and rules to the Commission based on research and study in the field of

1 personnel management, develop and administer statewide standards and criteria for good  
2 personnel management, provide training and technical assistance to all agencies,  
3 departments, and institutions, provide oversight, which includes conducting audits to  
4 monitor compliance with established State Personnel Commission policies and rules,  
5 administer a system for implementing necessary corrective actions when the rule,  
6 standards, or criteria are not met, and serve as the central repository for State Personnel  
7 System data. The agency, department, and institution heads shall be responsible and  
8 accountable for execution of Commission policies and rules for their employees."

9 Section 2. G.S. 126-3 reads as rewritten:

10 "**§ 126-3. Office of State Personnel established and responsibilities outlined;**  
11 **administration and supervision; appointment, compensation and tenure of**  
12 **Director.**

13 (a) There is hereby established the Office of State Personnel (hereinafter referred  
14 to as 'the Office') which shall be placed for organizational purposes within the  
15 Department of Administration. Notwithstanding the provisions of North Carolina State  
16 government reorganization as of January 1, 1975, and specifically notwithstanding the  
17 provisions of Chapter 864 of the 1971 North Carolina Session Laws [Chapter 143A], the  
18 Office of State Personnel shall exercise all of its statutory powers in this Chapter  
19 independent of control by the Secretary of Administration and shall be under the  
20 administration and supervision of a State Personnel Director (hereinafter referred to as  
21 'the Director') appointed by the Governor and subject to the supervision of the  
22 Commission for purposes of this Chapter. The salary of the Director shall be fixed by the  
23 General Assembly in the Current Operations Appropriations Act. The Director shall serve  
24 at the pleasure of the Governor.

25 (b) The Office shall be responsible for the following activities, and such other  
26 activities as specified in this Chapter:

27 (1) Providing policy and rule development for the Commission and  
28 implementing and administering all policies, rules, and procedures  
29 established by the Commission;

30 (2) Providing training in personnel management to agencies, departments,  
31 and institutions including train-the-trainer programs for those agencies,  
32 departments, and institutions who request such training and where  
33 sufficient staff and expertise exist to provide the training within their  
34 respective agencies, departments, and institutions;

35 (3) Providing technical assistance in the management of personnel  
36 programs and activities to agencies, departments, and institutions;

37 (4) Negotiating decentralization agreements with all agencies, departments,  
38 and institutions, where it is cost-effective to include delegation of  
39 authority for certain classification and corresponding salary  
40 administration actions and other personnel programs to be specified in  
41 the agreements;

42 (5) Administering such centralized programs and providing services as  
43 approved by the Commission which have not been transferred to

1 agencies, departments, and institutions or where this authority has been  
2 rescinded for noncompliance;

3 (6) Providing approval authority of personnel actions involving  
4 classification and compensation where such approval authority has not  
5 been transferred by the Commission to agencies, departments, and  
6 institutions or where such authority has been rescinded for  
7 noncompliance;

8 (7) Maintaining a computer database of all relevant and necessary  
9 information on employees and positions within agencies, departments,  
10 and institutions in the State's personnel system;

11 (8) Developing criteria and standards to measure the level of compliance or  
12 noncompliance with established Commission policies, rules,  
13 procedures, criteria, and standards in agencies, departments, and  
14 institutions to which authority has been delegated for classification,  
15 salary administration and other decentralized programs, and determining  
16 through routine monitoring and periodic review process, that agencies,  
17 departments, and institutions are in compliance or noncompliance with  
18 established Commission policies, rules, procedures, criteria, and  
19 standards; and

20 (9) Implementing corrective actions in cases of noncompliance."

21 Section 3. G.S. 126-4 reads as rewritten:

22 **"§ 126-4. Powers and duties of State Personnel Commission.**

23 Subject to the approval of the Governor, the State Personnel Commission shall  
24 establish policies and rules governing each of the following:

25 (1) Position classification plans which shall provide for the classification  
26 and reclassification of all positions subject to this Chapter according to  
27 the duties and responsibilities of the positions.

28 (2) Compensation plans which shall provide for minimum, maximum, and  
29 intermediate rates of pay for all employees subject to the provisions of  
30 this Chapter.

31 (3) For each class of positions, reasonable qualifications as to education,  
32 experience, specialized training, licenses, certifications, and other job-  
33 related requirements pertinent to the work to be performed.

34 (4) Recruitment programs designed to promote public employment,  
35 communicate current hiring activities within State government, and  
36 attract a sufficient flow of internal and external applicants; and  
37 determine the relative fitness of applicants for the respective positions.

38 (5) Hours and days of work, holidays, vacation, sick leave, and other  
39 matters pertaining to the conditions of employment. The legal public  
40 holidays established by the Commission as paid holidays for State  
41 employees shall include Martin Luther King, Jr.'s Birthday and Veterans  
42 Day. The Commission shall not provide for more than 11 paid holidays  
43 per year except that in those years in which Christmas Day falls on a

- 1 Tuesday, Wednesday, or Thursday, the Commission shall not provide  
2 for more than 12 paid holidays.
- 3 (5a) In years in which New Year's Day falls on Saturday, the Commission  
4 may designate December 31 of the previous calendar year as the New  
5 Year's holiday, provided that the number of holidays for the previous  
6 calendar year does not exceed 12 and the number of holidays for the  
7 current year does not exceed 10. When New Year's Day falls on either  
8 Saturday or Sunday, the constituent institutions of The University of  
9 North Carolina that adopt alternative dates to recognize the legal public  
10 holidays set forth in subdivision (5) of this section and established by  
11 the Commission may designate, in accordance with the rules of the  
12 Commission and the requirements of this subdivision, December 31 of  
13 the previous calendar year as the New Year's holiday.
- 14 (6) The appointment, promotion, transfer, demotion and suspension of  
15 employees.
- 16 (7) Cooperation with the State Board of Education, the Department of  
17 Public Instruction, the University of North Carolina, and the  
18 Community Colleges of the State and other appropriate resources in  
19 developing programs in, including but not limited to, management and  
20 supervisory skills, performance evaluation, specialized employee skills,  
21 accident prevention, equal employment opportunity awareness, and  
22 customer service; and to maintain an accredited Certified Public  
23 Manager program.
- 24 (7a) The separation of employees.
- 25 (8) A program of meritorious service awards.
- 26 (9) The investigation of complaints and the issuing of such binding  
27 corrective orders or such other appropriate action concerning  
28 employment, promotion, demotion, transfer, discharge, reinstatement,  
29 and any other issue defined as a contested case issue by this Chapter in  
30 all cases as the Commission shall find justified.
- 31 (10) Programs of employee assistance, productivity incentives, equal  
32 opportunity, safety and health as required by Part 1 of Article 63 of  
33 Chapter 143 of the General Statutes, and such other programs and  
34 procedures as may be necessary to promote efficiency of administration  
35 and provide for a fair and modern system of personnel administration.  
36 This subdivision may not be construed to authorize the establishment of  
37 an incentive pay program.
- 38 (11) In cases where the Commission finds discrimination or orders  
39 reinstatement or back pay whether (i) heard by the Commission or (ii)  
40 appealed for limited review after settlement or (iii) resolved at the  
41 agency level, the assessment of reasonable attorneys' fees and witnesses'  
42 fees against the State agency involved.
- 43 (12) Repealed by Session Laws 1987, c. 320, s. 2.

- 1 (13) Repealed by Session Laws 1987, c. 320, s. 3.  
2 (14) The implementation of G.S. 126-5(e).  
3 (15) Recognition of State employees, public personnel management, and  
4 management excellence.  
5 (16) The implementation of G.S. 126-7.  
6 (17) An alternative dispute resolution procedure.  
7 (18) a. Delegation of authority for approval of personnel actions through  
8 decentralized agreements to the heads of State agencies, departments,  
9 and institutions. Any such delegation made to Executive Branch  
10 agencies shall require that the position in the agency that is directly  
11 responsible for personnel administration have a dual reporting  
12 relationship to the agency head, or designee, and to the State Personnel  
13 Director for accountability of personnel actions made by the agency.  
14 Such joint reporting relationships shall become a part of new and  
15 existing decentralization agreements and the terms of the agreements  
16 will establish the rules relating to the joint appointment and to the  
17 required standards in the performance of personnel administration.  
18 b. The decentralization process, where appropriate, for State  
19 agencies, departments, and institutions, and enforcement of  
20 corrective actions including reducing employee salaries and  
21 changing employee classifications that do not comply with the  
22 policy, criteria, or standards; also includes, but is not limited to,  
23 suspension of decentralization agreements in cases of  
24 noncompliance; and in cases of suspension of decentralization  
25 agreements for noncompliance, the assessment and  
26 reimbursement to the Office of State Personnel for resulting  
27 operational and personnel costs associated with the period of  
28 modification of the agreement. The Office of State Budget and  
29 Management is authorized to allow agencies, departments, and  
30 institutions to use lapsed salaries and salary reserves for this  
31 purpose and shall direct use of such funds for this purpose upon  
32 being notified by the State Personnel Commission.

33 The policies and rules of the Commission shall not limit the power of any elected or  
34 appointed department head, in the department head's discretion and upon the department  
35 head's determination that it is in the best interest of the Department, to transfer, demote,  
36 or separate a State employee who is not a career State employee as defined by this  
37 Chapter."

38 Section 4. This act becomes effective January 1, 1998.