

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1344

Short Title: Employees Must Request Writing.

(Public)

Sponsors: Senators Johnson of Wake; Barker, Bryan, Lee, Sands, Sherron, and Staton.

Referred to: State Personnel.

May 22, 1990

A BILL TO BE ENTITLED

AN ACT TO PLACE THE BURDEN ON THE STATE EMPLOYEE TO REQUEST WRITTEN JUSTIFICATION FROM THE EMPLOYEE'S SUPERVISOR WHEN THAT EMPLOYEE IS ELIGIBLE FOR A PERFORMANCE INCREASE BUT DOES NOT RECEIVE A PERFORMANCE INCREASE OR WHEN THAT EMPLOYEE DOES NOT RECEIVE AN INCREASE OF A MIDRANGE VALUE WITHIN THE ALLOWABLE RANGE.

The General Assembly of North Carolina enacts:

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

"(c) Performance increases shall be based on performance appraisals of all employees conducted by each department, agency, and institution. The State Personnel Commission, under the authority of G.S.126-4(8), shall adopt policy and regulations for performance appraisal. The policy and regulations shall include the following:

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

(2) To be eligible to distribute its share of the performance increase allocation, a department, agency, or institution shall have an operative performance appraisal system which has been approved by the State Personnel Director. The performance appraisal system adopted shall use a rating scale of at least five levels, with the top three levels qualifying for performance increases, and shall adhere to modern personnel management techniques and practices in common use in the

1 public and private sectors. Departments, agencies, and institutions
2 with existing performance appraisal systems which use a rating scale
3 which is not consistent with the five-level system described above
4 shall have until July 1, 1991, to bring their systems into compliance
5 with this subsection.

6 (3) The State Personnel Director shall help departments, agencies, and
7 institutions to establish and administer their performance appraisal
8 systems and shall provide initial and ongoing training in performance
9 appraisal and performance system administration.

10 (4) An employee whose performance exceeds performance requirements
11 shall receive a performance increase unless the employee's supervisor
12 ~~justifies in writing~~ can justify the decision not to award the performance
13 increase. The supervisor shall give an employee written justification
14 of his decision not to award the performance increase when the
15 employee requests written justification. An employee whose
16 performance does not exceed performance requirements shall not
17 receive a performance increase.

18 (5) The State Personnel Director shall set the performance increase ranges
19 allowable for levels of performance that exceed performance
20 requirements. ~~Absent the supervisor's written justification, an employee~~
21 ~~whose performance exceeds expectations shall receive a percentage increase~~
22 ~~equal to the midrange value for his rating level.~~ ~~With the supervisor's~~
23 ~~written justification, an individual employee's increase may vary above or~~
24 ~~below the midrange value within the allowable range.~~ An employee whose
25 performance exceeds expectations shall receive a percentage increase
26 equal to the midrange value for his rating, unless the supervisor can
27 justify an increase above or below the midrange value within the
28 allowable range. The supervisor shall give an employee written
29 justification of his decision to award an increase above or below the
30 midrange value when the employee requests written justification. A
31 supervisor's performance appraisal plan, evaluation standards for each
32 employee, and individual employee ratings and recommended
33 performance increase amounts, with justification, shall be reviewed
34 and approved by that supervisor's next higher level supervisor.

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

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

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

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

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

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

43 Sec. 2. This act shall become effective July 1, 1990.