

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 1028
SENATE BILL 1402

AN ACT TO ESTABLISH A PERFORMANCE MANAGEMENT AND PAY ADVISORY COMMITTEE WITHIN EACH DEPARTMENT, AGENCY, AND INSTITUTION TO ENSURE THAT PERFORMANCE PAY INCREASES ARE MADE IN A FAIR AND EQUITABLE MANNER.

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 public and private sectors. Departments, agencies, and institutions with existing performance appraisal systems which use a rating scale which is not consistent with the five-level system described above shall have until July 1, 1991, to bring their systems into compliance with this subsection.
- (3) The State Personnel Director shall help departments, agencies, and institutions to establish and administer their performance appraisal systems and shall provide initial and ongoing training in performance appraisal and performance system administration.
- (4) An employee whose performance exceeds performance requirements shall receive a performance increase unless the employee's supervisor justifies in writing the decision not to award the performance increase. An employee whose performance does not exceed performance requirements shall not receive a performance increase.

- (5) The State Personnel Director shall set the performance increase ranges allowable for levels of performance that exceed performance requirements. Absent the supervisor's written justification, an employee whose performance exceeds expectations shall receive a percentage increase equal to the midrange value for his rating level. With the supervisor's written justification, an individual employee's increase may vary above or below the midrange value within the allowable range. A supervisor's performance appraisal plan, evaluation standards for each employee, and individual employee ratings and recommended performance increase amounts, with justification, shall be reviewed and approved by that supervisor's next higher level supervisor.
- (6) The State Personnel Director may suspend any performance increase that does not appear to meet the intent of the provisions of the performance pay system and require the originating department, agency, or institution to reconsider or justify the increase.
- (7) An employee who disputes the fairness of his performance evaluation or the sufficiency of the increase awarded or who believes that he was unfairly denied a performance increase shall first discuss the problem with his supervisor. Appeals of the supervisor's decision shall be made only to the grievance committee or internal performance review board of the department, agency, or institution which shall make a recommendation to the head of the department, agency, or institution for final decision. The State Personnel Director shall help a department, agency, or institution establish an internal performance review board or, if it includes employee members, to use its existing grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-34, performance pay disputes, including disputes about individual performance appraisals, shall not be considered contested case issues.
- (7a) Each department, agency, and institution shall establish a performance management and pay advisory committee as part of the performance appraisal system. The purpose of the committee is to ensure that performance pay increases are made in an equitable manner. The committee shall be responsible for reviewing:
- a. Agency performance pay policies and performance pay plan to determine whether this section and any guidelines promulgated by the Office of State Personnel have been adhered to;
 - b. Agency training and education programs to determine whether all employees receive appropriate information; and
 - c. Performance ratings within the department, agency, or institution to determine whether an equitable distribution has been made.

The committee must have a minimum of five members. The head of each department, agency, and institution shall appoint the members of the committee with equal representation of nonsupervisory, supervisory, and management employees. The committee shall elect its own chair.

The performance management and pay advisory committee shall meet at least two times each year. The committee shall submit a written report following each meeting to the head of the department, agency, or institution. The report shall include recommendations for changes and corrections in the administration of the performance management system. The recommendations of the committee shall be advisory only. The head of the department, agency, or institution shall respond to the committee within three months. Copies of the report shall be included in the report to the Office of State Personnel that is required of that agency, department, or institution. Summaries of the report shall be included in the annual reports that are mandated by this subsection.

d. Nothing in section (7a) and each subpart hereof shall be construed to obligate the General Assembly to appropriate funds to implement the provisions of this act.

- (8) The State Personnel Director shall monitor the performance appraisal system and performance increase distribution of each employing unit within each department, agency, and institution. Each department, agency, and institution shall submit to the Director annual reports which shall include data on the demographics of performance ratings, the frequency of evaluations, the performance pay increases awarded, and the implementation schedule for performance pay increases. The Director shall analyze the data to ensure that performance increases are distributed fairly within each department, agency, and institution and across all departments, agencies, and institutions of State government and shall report back to each department, agency, and institution on its appraisal and distribution performance.
- (9) The State Personnel Director shall report annually on the performance pay program to the Commission. The report shall evaluate the performance of each department, agency, and institution in the administration of its appraisal system and the distribution of performance increases within each department, agency, and institution and across State government. The report shall include recommendations for improving the performance appraisal system and alleviating inequities. Copies of the report shall be sent to the State Auditor.
- (10) The Commission shall report annually to the Governor, the Lieutenant Governor, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Standing Personnel Committees of

the House and the Senate. The Commission report shall include an evaluation of the administration of the appraisal system and distribution of performance increases by each department, agency, and institution. The State Personnel Director shall recommend to the General Assembly for its approval sanctions to be levied against departments, agencies, and institutions that have deficient appraisal systems or that do not link performance increases to performance. These sanctions may include withholding performance increases from the managers and supervisors of individual employing units of departments, agencies, and institutions in which discrepancies exist."

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

In the General Assembly read three times and ratified this the 27th day of July, 1990.