

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 84\*  
Second Edition Engrossed 5/25/93  
House Committee Substitute Favorable 7/16/93

Short Title: State Comprehensive Pay Plan.

(Public)

Sponsors:

Referred to:

February 9, 1993

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A COMPREHENSIVE COMPENSATION SYSTEM FOR STATE EMPLOYEES SUBJECT TO CHAPTER 126 OF THE GENERAL STATUTES AND TO DIRECT THE DISTRIBUTION OF APPROPRIATIONS FOR IMPLEMENTATION OF THIS COMPREHENSIVE COMPENSATION SYSTEM.

The General Assembly of North Carolina enacts:

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

**"§ 126-7. ~~Compensation of State employees.~~ Comprehensive Compensation System.**

(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 ~~may be based, in part, on each individual employee's job performance and, in part, on general increases given to all State employees.~~ shall be implemented through the Comprehensive Compensation System based upon the individual performance of each State employee. The Comprehensive Compensation System shall combine salary increases and awards into an interrelated system of compensation that furthers the recruitment, retention, career service, and outstanding performance of State employees.

(a1) ~~General salary increases for State employees shall precede any consideration of a performance pay allocation. Performance pay shall be allocated only when the total allocation for increases equals or exceeds two percent (2%).~~

(a2) For the purpose of this section, unless the context indicates otherwise:

- 1           (1) 'Career growth recognition award' means an annual salary increase  
2 awarded to a State employee whose final annual performance appraisal  
3 indicates job performance that meets or exceeds management's  
4 expectations and performance requirements;  
5           (2) 'Cost-of-living adjustment' means a general salary increase given to  
6 State employees in response to inflation and labor market factors;  
7           (3) 'Performance bonus' means a salary increase that is awarded in a lump  
8 sum to a State employee whose final annual performance appraisal  
9 indicates job performance that exceeds management's expectations and  
10 performance requirements.

11           (b) To guide the Governor and the General Assembly in making appropriations  
12 ~~to further the compensation policy of the State, fund the Comprehensive Compensation~~  
13 System, the State Personnel Commission shall conduct annual compensation surveys.  
14 The Commission shall present the results of the compensation survey to the  
15 Appropriations Committees of the House and Senate no later than two weeks after the  
16 convening of the legislature in odd years and May 1st of even years.

17           (b1) The Comprehensive Compensation System shall consist of the following  
18 components: (i) the career growth recognition award, (ii) the cost-of-living adjustment,  
19 and (iii) the performance bonus. The career growth recognition award shall be the  
20 primary method by which an employee progresses through his or her salary range and  
21 shall be awarded annually to employees who qualify for the award. An employee may  
22 receive, within a 12-month period, the career growth recognition award, the cost-of-  
23 living adjustment, and the performance bonus, if the employee's job performance equals  
24 or exceeds the level of performance set forth in subdivisions (4), (4a), and (4b) of  
25 subsection (c) of this section. No employee shall be eligible to receive during a 12-  
26 month period a performance bonus greater than the maximum amount or less than the  
27 minimum amount established by the Commission. Nothing in this section shall affect  
28 the system of longevity payments established by the Commission.

29           (c) ~~Performance increases, if awarded, Career growth recognition awards, cost-of-~~  
30 living adjustments, and performance bonuses shall be based on annual performance  
31 appraisals of all employees conducted by each department, agency, and institution. The  
32 State Personnel Commission, under the authority of G.S. 126-4(8), shall adopt policy  
33 and regulations for performance appraisal. The policy and regulations shall include the  
34 following:

- 35           (1) The performance appraisal system of each department, agency, or  
36 institution shall be designed and administered to ensure that  
37 performance increases are distributed fairly and reward only performance  
38 that exceeds performance requirements. ~~career growth recognition~~  
39 awards, cost-of-living adjustments, and performance bonuses are  
40 distributed fairly.  
41           (2) To be eligible to distribute its share of the performance increase allocation,  
42 career growth recognition awards, cost-of-living adjustments, and  
43 performance bonuses, a department, agency, or institution shall have  
44 an operative performance appraisal system which has been approved

1 by the State Personnel Director-Commission. The performance appraisal  
2 system adopted shall use a rating scale of five levels, with level four or  
3 better qualifying for performance bonuses, level three or better  
4 qualifying for career growth recognition awards, and level two or  
5 better qualifying for cost-of-living adjustments. The performance  
6 appraisal system adopted shall adhere to modern personnel  
7 management techniques and practices in common use in the public and  
8 private sectors. ~~The performance appraisal system adopted shall use a~~  
9 ~~rating scale of:~~

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

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

- 32 (3) The State Personnel Director shall help departments, agencies, and  
33 institutions to establish and administer their performance appraisal  
34 systems and shall provide initial and ongoing training in performance  
35 appraisal and performance system administration.
- 36 (4) ~~An employee whose performance exceeds performance requirements~~  
37 ~~shall receive a performance increase unless the employee's supervisor~~  
38 ~~justifies in writing to the employee the decision not to award the~~  
39 ~~performance increase. An employee whose performance does not~~  
40 ~~exceed performance requirements shall not receive a performance~~  
41 ~~increase. Standards for performance and standards for performance~~  
42 ~~pay increases may be established for each department, agency, or~~  
43 ~~institution. These standards may not set limits so as to preclude an~~  
44 ~~employee whose performance exceeds performance requirements from~~

1 ~~consideration for an increase.—An employee whose performance is~~  
2 ~~rated at or above level four of the rating scale shall be eligible to~~  
3 ~~receive, subject to the rules and regulations of the Commission, a~~  
4 ~~performance bonus unless the employee's supervisor justifies in~~  
5 ~~writing to the employee the decision not to award the performance~~  
6 ~~bonus. Other than the Commission, no department, agency, or~~  
7 ~~institution shall set limits so as to preclude an employee whose~~  
8 ~~performance exceeds management's expectations and performance~~  
9 ~~requirements from consideration for a performance bonus.~~

10 (4a) ~~An employee whose performance is rated at or above level three of the~~  
11 ~~rating scale shall receive a career growth recognition award unless the~~  
12 ~~employee's supervisor justifies in writing to the employee the decision~~  
13 ~~not to give the career growth recognition award. The career growth~~  
14 ~~recognition award shall represent a two percent (2%) increase within~~  
15 ~~the employee's assigned pay grade. In no event shall any award~~  
16 ~~increase an employee's compensation above the maximum of the~~  
17 ~~range. Other than the Commission, no agency, department, or~~  
18 ~~institution shall set limits so as to preclude an employee whose~~  
19 ~~performance meets or exceeds management's expectations and~~  
20 ~~performance requirements from receiving a career growth recognition~~  
21 ~~award.~~

22 (4b) ~~An employee whose performance is rated at or above level two of the~~  
23 ~~rating scale and who is not involved in the final written stage of the~~  
24 ~~disciplinary procedure shall receive a cost-of-living increase. Other~~  
25 ~~than the Commission, no agency, department, or institution shall set~~  
26 ~~limits or initiate written disciplinary procedures for the purpose of~~  
27 ~~precluding an eligible employee from receiving a cost-of-living~~  
28 ~~adjustment.~~

29 (5) ~~The State Personnel Director shall set the performance~~  
30 ~~increase ranges allowable for levels of performance that exceed~~  
31 ~~performance requirements.—An employee whose performance~~  
32 ~~exceeds expectations shall receive a percentage increase equal to the~~  
33 ~~midrange value for his rating, unless the supervisor can justify an~~  
34 ~~increase above or below the midrange value within the allowable~~  
35 ~~range. The supervisor shall give an employee written justification of~~  
36 ~~his decision to award an increase above or below the midrange value~~  
37 ~~when the employee requests written justification.—A supervisor's~~  
38 ~~performance appraisal plan, evaluation standards for each employee,~~  
39 ~~and individual employee ratings and recommended performance~~  
40 ~~increase amounts, with justification, shall be reviewed and approved~~  
41 ~~by that supervisor's next higher level supervisor.~~

42 (5a) ~~If an employee is otherwise eligible for a performance increase and is~~  
43 ~~at the top of (but does not exceed) a pay scale, the employee shall~~  
44 ~~receive a performance increase in the form of a performance bonus.~~

1           ~~This performance bonus shall be a one-time, lump-sum award paid~~  
 2           ~~separately from any other payment to the employee for the year. Such~~  
 3           ~~award shall not serve to increase the base pay of such employee. An~~  
 4           ~~award of this bonus pursuant to this subdivision does not affect:~~

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

6           ~~b.     The employee's current salary, which will remain at the top of~~  
 7           ~~the pay scale.~~

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

10          (6)     The State Personnel Director may ~~suspend-rescind~~ any career growth  
 11           recognition award or performance increase-bonus that does not appear  
 12           to meet the intent of the provisions of the performance ~~pay-appraisal~~  
 13           system and require the originating department, agency, or institution to  
 14           reconsider or justify the increase.

15          (7)     An employee who disputes the fairness of his or her performance  
 16           ~~evaluation-appraisal~~ or the ~~sufficiency-amount~~ of a performance bonus  
 17           ~~increase-awarded~~ or who believes that he or she was unfairly denied a  
 18           career growth recognition award or performance increase-bonus shall  
 19           first discuss the problem with his or her supervisor. Appeals of the  
 20           supervisor's decision shall be made only to the grievance committee or  
 21           internal performance review board of the department, agency, or  
 22           institution which shall make a recommendation to the head of the  
 23           department, agency, or institution for final decision. The State  
 24           Personnel Director shall help a department, agency, or institution  
 25           establish an internal performance review board or, if it includes  
 26           employee members, to use its existing grievance committee to hear  
 27           performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S.  
 28           126-22, 126-25, and 126-34, performance pay disputes, including  
 29           disputes about individual performance appraisals, shall not be  
 30           considered contested case issues.

31          (7a)    Each department, agency, and institution shall establish a performance  
 32           management and pay advisory committee as part of the performance  
 33           appraisal system. The purpose of the committee is to ensure that  
 34           ~~performance pay increases-salary increases and awards~~ are made in an  
 35           equitable manner. The committee shall be responsible for reviewing:

36           a.     Agency ~~performance pay-salary increase and award~~ policies ~~and~~  
 37           ~~performance pay plan~~ to determine whether this section and any  
 38           guidelines promulgated by the ~~Office of State Personnel~~ State  
 39           Personnel Commission have been adhered to;

40           b.     Agency training and education programs to determine whether  
 41           all employees receive appropriate information; and

42           c.     Performance appraisal ratings within the department, agency, or  
 43           institution to determine whether an equitable distribution has  
 44           been made.

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

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

19 ~~Nothing in subdivision (7a) and each subpart hereof shall be~~  
20 ~~construed to obligate the General Assembly to appropriate~~  
21 ~~funds to implement the provisions of this subdivision.~~

22 (8) The State Personnel Director shall monitor the performance appraisal  
23 system and ~~performance increase distribution of each employing unit~~ the  
24 distribution of salary increases and awards within each department,  
25 agency, and institution. Each department, agency, and institution shall  
26 submit to the Director annual reports which shall include data on the  
27 demographics of performance ratings, the frequency of evaluations, ~~the~~  
28 ~~performance pay increases awarded~~ the distribution of salary increases  
29 and awards, and the implementation schedule for ~~performance pay~~  
30 ~~increases~~ salary increases and awards. The Director shall analyze the  
31 data to ensure that ~~performance increases~~ salary increases and awards  
32 are distributed fairly within each department, agency, and institution  
33 and across all departments, agencies, and institutions of State  
34 government and shall report back to each department, agency, and  
35 institution on its appraisal and distribution performance.

36 (9) The State Personnel Director shall report annually on the ~~performance~~  
37 ~~pay program~~ Comprehensive Compensation System to the Commission.  
38 The report shall evaluate the performance of each department, agency,  
39 and institution in the administration of its appraisal system and the  
40 distribution of ~~performance increases~~ salary increases and awards within  
41 each department, agency, and institution and across State government.  
42 The report shall include recommendations for improving the  
43 performance appraisal system and alleviating inequities. ~~Copies of the~~  
44 ~~report shall be sent to the State Auditor.~~ Copies of the report, as adopted

1 by the State Personnel Commission, shall be sent to the Governor,  
2 Lieutenant Governor, President Pro Tempore of the Senate, Speaker of  
3 the House of Representatives, the standing personnel committees of  
4 the House of Representatives and the Senate, and the State Auditor.  
5 The State Personnel Director shall recommend to the General  
6 Assembly for its approval sanctions to be levied against departments,  
7 agencies, and institutions that have deficient performance appraisal  
8 systems or that do not link salary increases and awards to employee  
9 job performance. These sanctions may include withholding salary  
10 increases and awards from the managers and supervisors of individual  
11 employing units of departments, agencies, and institutions in which  
12 discrepancies exist.

13 (10) ~~The Commission shall report annually to the Governor, the Lieutenant~~  
14 ~~Governor, the President Pro Tempore of the Senate, the Speaker of the~~  
15 ~~House of Representatives, and the Standing Personnel Committees of~~  
16 ~~the House and the Senate. The Commission report shall include an~~  
17 ~~evaluation of the administration of the appraisal system and~~  
18 ~~distribution of performance increases by each department, agency, and~~  
19 ~~institution. The State Personnel Director shall recommend to the~~  
20 ~~General Assembly for its approval sanctions to be levied against~~  
21 ~~departments, agencies, and institutions that have deficient appraisal~~  
22 ~~systems or that do not link performance increases to performance.~~  
23 ~~These sanctions may include withholding performance increases from~~  
24 ~~the managers and supervisors of individual employing units of~~  
25 ~~departments, agencies, and institutions in which discrepancies exist.~~

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

28 (e) The Governor and the General Assembly, subject to availability of funds,  
29 shall advance the State's Comprehensive Compensation System by recommending and  
30 making annual appropriations to the Comprehensive Compensation System in the  
31 following manner:

32 (1) The career growth recognition award component shall be funded each  
33 year at the level required for full implementation as provided by this  
34 section.

35 (2) To the extent that expansion funds are available, the Comprehensive  
36 Compensation System shall receive an additional appropriation to fund  
37 cost-of-living adjustments. Any remaining available funds shall next  
38 be allocated to provide for performance bonuses. The level of the  
39 performance bonus allocation shall not exceed two percent (2%) of the  
40 total employee payroll."

41 Sec. 2. G.S. 126-4 reads as rewritten:

42 **"§ 126-4. Powers and duties of State Personnel Commission.**

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

- 1 (1) Position classification plans which shall provide for the classification  
2 and reclassification of all positions subject to this Chapter according to  
3 the duties and responsibilities of the positions.
- 4 (2) Compensation plans which shall provide for minimum, maximum, and  
5 intermediate rates of pay for all employees subject to the provisions of  
6 this Chapter.
- 7 (3) For each class of positions, reasonable qualifications as to education,  
8 experience, specialized training, licenses, certifications, and other job-  
9 related requirements pertinent to the work to be performed.
- 10 (4) Recruitment programs designed to promote public employment,  
11 communicate current hiring activities within State government, and  
12 attract a sufficient flow of internal and external applicants; and  
13 determine the relative fitness of applicants for the respective positions.
- 14 (5) Hours and days of work, holidays, vacation, sick leave, and other  
15 matters pertaining to the conditions of employment. The legal public  
16 holidays established by the Commission as paid holidays for State  
17 employees shall include Martin Luther King, Jr.'s Birthday and  
18 Veterans Day. The Commission shall not provide for more than 11  
19 paid holidays per year except that in those years in which Christmas  
20 Day falls on a Tuesday, Wednesday, or Thursday, the Commission  
21 shall not provide for more than 12 paid holidays.
- 22 (6) The appointment, promotion, transfer, demotion and suspension of  
23 employees.
- 24 (7) Cooperation with the Department of Public Education, the University  
25 of North Carolina, and the Community Colleges of the State and other  
26 appropriate resources in developing programs in, including but not  
27 limited to, management and supervisory skills, performance  
28 evaluation, specialized employee skills, accident prevention, equal  
29 employment opportunity awareness, and customer service; and to  
30 maintain an accredited Certified Public Manager program.
- 31 (7a) The separation of employees.
- 32 (8) ~~The evaluation of employee performance, the granting of performance~~  
33 ~~salary increases, and a~~ A program of meritorious service awards.
- 34 (9) The investigation of complaints and the issuing of such binding  
35 corrective orders or such other appropriate action concerning  
36 employment, promotion, demotion, transfer, discharge, reinstatement,  
37 and any other issue defined as a contested case issue by this Chapter in  
38 all cases as the Commission shall find justified.
- 39 (10) Programs of safety, health, employee assistance, productivity  
40 incentives, equal opportunity and such other programs and procedures  
41 as may be necessary to promote efficiency of administration and  
42 provide for a fair and modern system of personnel administration. This  
43 subdivision may not be construed to authorize the establishment of an  
44 incentive pay program.

1 (11) In cases where the Commission finds discrimination or orders  
2 reinstatement or back pay whether (i) heard by the Commission or (ii)  
3 appealed for limited review after settlement or (iii) resolved at the  
4 agency level, the assessment of reasonable attorneys' fees and  
5 witnesses' fees against the State agency involved.

6 (12) Repealed by Session Laws 1987, c. 320, s. 2.

7 (13) Repealed by Session Laws 1987, c. 320, s. 3.

8 (14) The implementation of G.S. 126-5(e).

9 (15) Recognition of State employees, public personnel management, and  
10 management excellence.

11 (16) The implementation of G.S. 126-7.

12 Such policies and rules shall not limit the power of any elected or appointed  
13 department head, in his discretion and upon his determination that it is in the best  
14 interest of the Department, to transfer, demote, or separate a State

15 (1) Employee in a primary level position who has not been continuously  
16 employed by the State of North Carolina for the immediate 12  
17 preceding months;

18 (2) Employee in a secondary level or professional position who has not  
19 been continuously employed by the State of North Carolina for the  
20 immediate 24 preceding months; [or]

21 (3) Employee in a management level or consultant position who has not  
22 been continuously employed by the State of North Carolina for the  
23 immediate 36 preceding months.

24 (4) Repealed by Session Laws 1991, c. 354, s. 2, effective July 1, 1993."

25 Sec. 3. (a) There is created in the Office of the Governor the Task Force on  
26 the Implementation of a Comprehensive Compensation System for State Employees.  
27 The Task Force shall be made up of 11 members appointed as follows:

28 (1) Five members appointed by the Governor, including representatives of  
29 the Office of State Personnel and State agencies with employees who  
30 are subject to the State Personnel Act;

31 (2) Three members appointed by the President Pro Tempore of the Senate;  
32 and

33 (3) Three members appointed by the Speaker of the House of  
34 Representatives.

35 (b) The Task Force shall develop a plan for moving State employees into the  
36 Comprehensive Compensation System enacted in this act. The Task Force shall report  
37 on its plan to the Governor and the General Assembly prior to March 1, 1994.

38 (c) It is the intent of the General Assembly to consider the report of this Task  
39 Force and to make any changes in the Comprehensive Compensation System the  
40 General Assembly deems appropriate prior to July 1, 1994.

41 Sec. 4. (a) The Office of State Personnel shall study the State Personnel  
42 System, including employee classifications, salary schedules for State employees, pay  
43 equity, pay inequities considering appropriate factors, the impact the Comprehensive  
44 Compensation System will have on the growing disparity between the top and the

1 bottom of the pay scale, and placement of employees under the Comprehensive  
2 Compensation System in accordance with years of experience, and shall develop a plan  
3 for realigning the classification system. The Office of State Personnel shall make an  
4 interim report on the plan to the General Assembly prior to April 1, 1994, and a final  
5 report to the General Assembly prior to February 1, 1995.

6 (b) It is the intent of the General Assembly to consider the April 1, 1994 report of  
7 the Office of State Personnel and to incorporate the report as appropriate in the  
8 Comprehensive Compensation System prior to implementation of the system. It is  
9 further the intent of the General Assembly to consider the February 1, 1995 report from  
10 the Office of State Personnel and to modify the Comprehensive Compensation System  
11 as appropriate after consideration of the report.

12 Sec. 5. Nothing in this act shall obligate this or future General Assemblies to  
13 fund the provisions of this act. Nothing in this act shall be construed to entitle State  
14 employees to increases in compensation for which the General Assembly has not  
15 appropriated funds. It is the intent of the General Assembly to use the Comprehensive  
16 Compensation System as a model for the allocation of funds appropriated for salary  
17 increments for State employees: Provided, however, current revenue forecasts require  
18 that the General Assembly choose among components of the system, including career  
19 growth recognition awards, cost-of-living adjustments, performance bonuses,  
20 modifications in salary schedules, and placement of employees on the salary schedule,  
21 when it allocates funds for salary increments for State employees.

22 Sec. 6. This act is effective upon ratification. Sections 1 and 2 of this act  
23 apply to any compensation earned on or after July 1, 1994, but procedures and rules to  
24 implement those subsections may be adopted at any time after ratification of this act.