

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1469

Short Title: State Personnel Comm. Reorganized.

(Public)

Sponsors: Representatives Sherrill, Russell; Hurley and Thompson.

Referred to: State Government.

May 25, 1998

A BILL TO BE ENTITLED

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.

The General Assembly of North Carolina enacts:

Section 1. Effective March 31, 1999, G.S. 126-2 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 ~~seven members who shall be appointed by the Governor on July 1, 1965, or as soon thereafter as is practicable. Two members of the Commission 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 initial members of the Commission, two shall be appointed to serve for terms of two years, two shall be~~

1 appointed to serve for terms of four years, and three shall be appointed to serve for terms
2 of six years. Their successors shall be appointed by the Governor for terms of six years.
3 Any vacancy occurring prior to the expiration of a term shall be filled by appointment for
4 the unexpired term. ~~nine members who shall be appointed as follows:~~

- 5 (1) Two attorneys licensed to practice law in North Carolina appointed by
6 the General Assembly. Each attorney shall serve without the creation of
7 a conflict of interest or the appearance of impropriety. One attorney
8 shall be appointed upon the recommendation of the Speaker of the
9 House of Representatives and one attorney shall be appointed upon the
10 recommendation of the President Pro Tempore of the Senate. The
11 initial members appointed under this subdivision shall serve terms
12 expiring June 30, 2005; the terms of subsequent appointees shall be six
13 years.
- 14 (2) Two persons from private business or industry appointed by the
15 Governor, both of whom shall have a working knowledge of, or
16 practical experience in, human resources management. The initial
17 members appointed under this subdivision shall serve terms expiring
18 June 30, 2003; the terms of subsequent appointees shall be six years.
- 19 (3) Two State employees subject to the State Personnel Act serving in
20 nonexempt positions, appointed by the General Assembly. One
21 employee shall serve in a State government position having supervisory
22 duties and one employee shall serve in a nonsupervisory position.
23 Neither employee may be a human resources professional. The Speaker
24 of the House of Representatives shall recommend the supervisory
25 employee and the President Pro Tempore of the Senate shall
26 recommend the nonsupervisory employee. The initial members
27 appointed under this subdivision shall serve terms expiring June 30,
28 2001; the terms of subsequent appointees shall be six years.
- 29 (4) Two local government employees subject to the State Personnel Act
30 appointed by the Governor, including one nonsupervisory local
31 employee appointed upon the recommendation of the North Carolina
32 Association of County Commissioners and one supervisory local
33 employee appointed upon the recommendation of the North Carolina
34 League of Municipalities. Neither local government employee may be a
35 human resources professional. The initial members appointed under this
36 subdivision shall serve terms expiring June 30, 2003; the terms of
37 subsequent appointees shall be for six years.
- 38 (5) One member of the public at large appointed by the Governor. The at-
39 large member shall serve without a conflict of interest. The initial
40 member appointed under this subdivision shall serve for a term expiring
41 June 30, 2001.

42 (c) ~~Members of the Commission appointed after February 1, 1976, shall be~~
43 ~~appointed subject to confirmation by the General Assembly of North Carolina. If the~~

1 General Assembly is not in session when an appointment is made, the appointee shall
2 temporarily exercise all of the powers of a confirmed member until the convening of the
3 next legislative session. If the General Assembly does not act on confirmation of a
4 proposed member within 30 legislative days of the submission of the name, the member
5 shall be considered confirmed. If the Governor does not appoint a new member within 60
6 calendar days of the occurrence of a vacancy or the rejection of an appointment by the
7 General Assembly, the remaining members of the Commission shall have the authority to
8 fill the vacancy. may serve no more than two consecutive terms. Appointments by the
9 General Assembly shall be made in accordance with G.S. 120-121 and vacancies in those
10 appointments shall be filled in accordance with G.S. 120-122.

11 (d) The Governor appointing authority may at any time after notice and hearing
12 remove any Commission member for gross inefficiency, neglect of duty, malfeasance,
13 misfeasance, or nonfeasance in office. cause.

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

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

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

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

23 Section 2. Effective March 31, 1999, Article 1 of Chapter 126 of the General
24 Statutes is amended by adding a new section to read:

25 **"§ 126-4.1. Commission panels may recommend final agency decisions.**

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

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

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

36 (1) Accept the recommendation of the panel and incorporate the panel's
37 recommendation as the Commission's final decision; or

38 (2) Reject the recommendation of the panel and make a final decision upon
39 consideration by the full Commission."

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

41 "(68) The State Personnel Commission."

1 Section 4. The terms of members of the State Personnel Commission who
2 were appointed pursuant to G.S. 126-2 as it was in effect prior to March 31, 1999, shall
3 expire on March 30, 1999.

4 Section 5. This act is effective when it becomes law.