

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1469  
Committee Substitute Favorable 8/10/98

Short Title: State Personnel Comm. Reorganized.

(Public)

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Sponsors:

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Referred to:

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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~~

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

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

1            member appointed under this subdivision shall serve for a term expiring  
2            June 30, 2001; the terms of subsequent appointees shall be for six years.

3            ~~(c) Members of the Commission appointed after February 1, 1976, shall be~~  
4 ~~appointed subject to confirmation by the General Assembly of North Carolina. If the~~  
5 ~~General Assembly is not in session when an appointment is made, the appointee shall~~  
6 ~~temporarily exercise all of the powers of a confirmed member until the convening of the~~  
7 ~~next legislative session. If the General Assembly does not act on confirmation of a~~  
8 ~~proposed member within 30 legislative days of the submission of the name, the member~~  
9 ~~shall be considered confirmed. If the Governor does not appoint a new member within 60~~  
10 ~~calendar days of the occurrence of a vacancy or the rejection of an appointment by the~~  
11 ~~General Assembly, the remaining members of the Commission shall have the authority to~~  
12 ~~fill the vacancy. may serve no more than two consecutive terms. Appointments by the~~  
13 ~~General Assembly shall be made in accordance with G.S. 120-121 and vacancies in those~~  
14 ~~appointments shall be filled in accordance with G.S. 120-122.~~

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

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

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

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

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

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

29 **"§ 126-4.1. Commission panels may recommend final agency decisions.**

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

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

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

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

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

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

2           "(68) The State Personnel Commission."

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

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