

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

S

1

SENATE BILL 391

Short Title: SPA/Repeal RIF Priority Consideration.

(Public)

Sponsors: Senators Brunstetter; and Hise.

Referred to: Judiciary I.

March 23, 2011

A BILL TO BE ENTITLED

AN ACT REPEALING THE PRIORITY CONSIDERATION IN HIRING GIVEN UNDER  
THE STATE PERSONNEL ACT TO COVERED EMPLOYEES SUBJECT TO  
REDUCTIONS IN FORCE.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 126-7.1 reads as rewritten:

**"§ 126-7.1. Posting requirement; ~~State employees receive priority consideration;~~  
~~reduction in force rights; reduction in force; Work First hiring.~~**

(a) All vacancies for which any State agency, department, or institution openly recruit shall be posted in a place readily accessible to employees that is located within at least the following:

- (1) The personnel office of the agency, department, or institution having the vacancy; and
- (2) The particular work unit of the agency, department, or institution having the ~~vacancy~~vacancy.

~~in a location readily accessible to employees.~~ If the decision is made, initially or at any time while the vacancy remains open, to receive applicants from outside the recruiting agency, department, or institution, the vacancy shall be listed with the Office of State Personnel for the purpose of informing current State employees of such vacancy. The State agency, department, or institution may not receive approval from the Office of State Personnel to fill a job vacancy if the agency, department, or institution cannot prove to the satisfaction of the Office of State Personnel that it complied with these posting requirements. The agency, department, or institution which hires any person in violation of these posting requirements shall pay such person when employment is discontinued as a result of such violation for the work performed during the period of time between his initial employment and separation.

(a1) State employees to be affected by a reduction in force shall be notified of the reduction in force as soon as practicable, and in any event, no less than 30 days prior to the effective date of the reduction in force.

~~(a2) The State Personnel Commission shall adopt rules to provide that priority consideration for State employees separated from State employment as the result of reductions in force is to enable a State employee's return to career service at a salary grade and salary rate equal to that held in the most recent position. The State Personnel Commission shall provide that a State employee who:~~

- ~~(1) Accepts a position at the same salary grade shall be paid at the same salary rate as the employee's previous position.~~
- ~~(2) Accepts a position at a lower salary grade than the employee's previous position shall be paid at the same rate as the previous position unless the~~



\* S 3 9 1 - V - 1 \*

~~salary rate exceeds the maximum of the new salary grade. When the salary rate exceeds the maximum of the salary grade, the employee's new salary rate shall be reduced to the maximum of the new salary grade.~~

(b) Subsection (a) of this section does not apply to vacancies which must be filled immediately to prevent work stoppage or the protection of the public health, safety, or security.

~~(c) If a State employee subject to this section:~~

~~(1) Applies for another position of State employment that would constitute a promotion and;~~

~~(2) Has substantially equal qualifications as an applicant who is not a State employee~~

~~then the State employee shall receive priority consideration over the applicant who is not a State employee. This priority consideration shall not apply when the only applicants considered for the vacancy are current State employees.~~

~~(c1) If a State employee who has been separated due to reduction in force or who has been given notice of imminent separation due to reduction in force:~~

~~(1) Applies for another position of State employment equal to or lower in salary grade than the position held by the employee at the time of notification or separation; and~~

~~(2) Is determined qualified for that position~~

~~then within all State agencies, the State employee shall receive priority consideration over all other applicants but shall receive equal consideration with other applicants who are current State employees not affected by the reduction in force. This priority shall remain in effect for a period of 12 months from the date the employee receives notification of separation by reduction in force. State employees separated due to reduction in force shall receive higher priority than other applicants with employment or reemployment priorities, except that the reemployment priority created by G.S. 126-5(e)(1) shall be considered as equal. The reduction in force priority created by this subsection shall be administered in accordance with rules promulgated by the State Personnel Commission.~~

~~(c2) If the applicants for reemployment for a position include current State employees, a State employee with more than 10 years of service shall receive priority consideration over a State employee having less than 10 years of service in the same or related position classification. This reemployment priority shall be given by all State departments, agencies, and institutions with regard to positions subject to this Chapter.~~

~~(d) "Qualifications" within the meaning of subsection (c) of this section shall consist of:~~

~~(1) Training or education;~~

~~(2) Years of experience; and~~

~~(3) Other skills, knowledge, and abilities that bear a reasonable functional relationship to the abilities and skills required in the job vacancy applied for.~~

(e) Each State agency, department, and institution is encouraged to hire into State government employment qualified applicants who are current or former Work First Program participants.

(f) Each State agency, department, institution, university, community college, and local education agency shall verify, in accordance with the Basic Pilot Program administered by the United States Department of Homeland Security pursuant to 8 U.S.C. § 1101, et seq, each individual's legal status or authorization to work in the United States after hiring the individual as an employee to work in the United States."

**SECTION 2.** Nothing in this act affects the extended period of priority reconsideration afforded to State employees by Section 26.14D of S.L. 2009-451, as amended by Section 9.3 of S.L. 2009-575.

**SECTION 3.** This act becomes effective July 1, 2011, and applies to employees subject to reductions in force on or after that date.