

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2019

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HOUSE BILL 1085\*

Short Title: Front Line State Employee Hazard Pay/Funds. (Public)

Sponsors: Representatives Hunt, Harrison, Fisher, and Autry (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: Appropriations, if favorable, Rules, Calendar, and Operations of the House

May 14, 2020

1 A BILL TO BE ENTITLED  
2 AN ACT MANDATING HAZARD PAY FOR THE MANDATORY STATE EMPLOYEES  
3 ON THE FRONT LINE FIGHTING THE COVID-19 COMMUNICABLE DISEASE  
4 PANDEMIC AND APPROPRIATING FUNDS FOR THAT PURPOSE AND DIRECTING  
5 THE LEGISLATIVE RESEARCH COMMISSION TO STUDY THE PROVISION OF  
6 HAZARD PAY TO PRIVATE AND LOCAL GOVERNMENTAL EMPLOYEES IN THIS  
7 STATE.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. Article 2 of Chapter 126 of the General Statutes is amended by adding  
10 a new section to read:

11 "**§ 126-8.6. Mandatory State operations; mandatory employees; hazard pay requirements.**

12 (a) Definitions. – The following definitions apply in this section:

13 (1) Epidemic. – A disease occurring suddenly in a community, region, or country  
14 in numbers clearly in excess of normal. This includes the occurrence of several  
15 cases of a disease associated with a common source.

16 (2) High-risk employees. – Employees in a certain age group or who have serious  
17 underlying medical conditions and might be at higher risk for severe illness  
18 from a communicable disease as identified by the federal Centers for  
19 Communicable Diseases or the Division of Public Health of the North  
20 Carolina Department of Human Services.

21 (3) Isolation. – A control measure issued by a local health director or the State  
22 Health Director under G.S. 130A-145 limiting the movement or action of  
23 persons or animals infected or reasonably suspected to be infected with a  
24 communicable disease or condition for the period of communicability to  
25 prevent the spread of the communicable disease or condition, as described in  
26 G.S. 130A-2(3a).

27 (4) Mandatory employee. – An employee with a permanent, probationary, or  
28 time-limited appointment who is required to report to a designated work site  
29 (particularly when all other employees are restricted from coming into the  
30 workplace), other than their personal residence, and only for those specific  
31 dates and times that such onsite reporting is required during a public health  
32 emergency. Mandatory employees include, but are not limited to, employees  
33 in positions that directly impact: (i) public health and patient care, (ii) public  
34 safety, (iii) operation of critical infrastructure and facilities, (iv) operation and  
35 safety of sensitive research labs and ongoing care for research animals and the



1 custody or care of persons or property for whom the State has a duty to  
2 continue to serve. Mandatory employees may also be referred to as "essential  
3 employees."

4 (5) Pandemic. – The worldwide spread of an infectious/communicable disease  
5 affecting a large number of people.

6 (6) Quarantine. – A control measure issued by a local health director or the State  
7 Health Director under G.S. 130A-145 limiting the movement or action of  
8 persons or animals who have been exposed to or are reasonably suspected of  
9 having been exposed to a communicable disease or condition for the period of  
10 time necessary to prevent the spread of the communicable disease or  
11 condition, as described in G.S. 130A-2(7a).

12 (7) Social distancing. – Actions taken to reduce the opportunities for close contact  
13 between people in order to limit the spread of a communicable disease.

14 (8) State agency or agency. – The legislative, executive, and judicial branches of  
15 State government and the respective departments, divisions, and other units  
16 thereof. The term includes The University of North Carolina.

17 (b) Findings and Policy. – Notwithstanding the existence of a communicable disease  
18 epidemic or pandemic in this State, the mandatory essential functions of government must  
19 continue, even if isolation, quarantine, and social distancing are public health control measures  
20 that may be required to protect the public health. Certain State employees are essential such that  
21 their continued presence in the workplace may be required in a situation. It is the policy of this  
22 State to provide mandatory State employees with (i) the most effective equipment and measures  
23 to protect their health in the workplace and (ii) hazard pay to compensate them for their continued  
24 service during an epidemic or pandemic.

25 (c) Agency Responsibilities. – It is the responsibility of the head of each State agency to  
26 consult with local, State, and federal public health officials to assess the severity of the individual  
27 situation and to determine what actions shall be taken (including the closure of the agency or  
28 university, by facility or location). Each State agency shall:

29 (1) Comply with and adhere to any control measures, other orders, or instructions  
30 from federal, State, and local public health agencies to prevent transmission  
31 of a communicable disease.

32 (2) Require that agency management and employees follow public health  
33 guidelines.

34 (3) Immediately inform agency management and other employees, and the local  
35 health department, of any evidence in the workplace of a communicable  
36 disease that could seriously endanger the health of employees and others.

37 (d) Mandatory Operations. – In order to continue essential State government functions,  
38 the head of each State agency shall predetermine and designate mandatory operations and  
39 designate the mandatory employees to staff the operations even when isolation, quarantine, and  
40 social distancing are public health control measures that may be required to protect the public  
41 health during a communicable disease pandemic or epidemic.

42 (e) Mandatory Employees. – A mandatory employee may be required to work during a  
43 pandemic or epidemic in order to maintain mandatory operations. A mandatory employee may  
44 be excused from work if the employee is:

45 (1) A high-risk employee;

46 (2) Isolated, quarantined, ill, or subject to other public health control measures;  
47 or

48 (3) Required to care for a member of the employee's immediate family who is  
49 isolated, quarantined, or ill or who requires the employee's care due to the  
50 closure of a public or private school, a day care center, or an elder care facility.

1 Based on an agency's operational needs, a supervisor may excuse a mandatory employee if  
2 they are a parent (or guardian) who is required to stay home with underage children because of  
3 the closure of a day care facility, public or private school, or elder care facility.

4 If operational needs change, a mandatory employee may be required to return to work, but  
5 only for documented compelling reasons that will not jeopardize the health and safety of the  
6 mandatory employee. Management's discretion or convenience is not a compelling reason when  
7 the employee has been advised by a health care provider to quarantine due to exposure to a  
8 communicable disease. The advice to quarantine must be documented and based upon the health  
9 care provider's belief that the employee has the communicable disease, may have been exposed  
10 to the communicable disease, or is particularly vulnerable to the communicable disease.

11 Each State agency shall maintain a list of mandatory employees by position, including current  
12 employee name and contact information. The agency head shall develop an alternative plan for  
13 personnel in case the designated personnel are unable to work. Alternative workers may include  
14 current employees who are not designated as mandatory but who possess the skills to fill in for  
15 mandatory employees, retirees, contract workers, or other temporary employees. Employees  
16 designated as mandatory personnel shall be notified of such designation and the requirement to  
17 report for, or remain at, work in emergency situations.

18 If mandatory personnel are required to remain at the work site for an extended period of time,  
19 the agency or university must provide adequate housing and food. If an employee remains on the  
20 employer's premises for 24 hours a day, the employee shall be eligible for extra hazard duty pay  
21 as appropriate and may be entitled to receive pay for all those hours depending on the situation.  
22 Employees shall have a normal night's sleep and ample eating time and this time is not considered  
23 as hours worked. At a minimum, the sleep allowance is for eight hours of sleep and the meal  
24 period is for three hours.

25 (f) Hazard Pay/Compensatory Time. – When an agency is closed or when management  
26 determines that only mandatory employees are required to report to a specific work site  
27 (particularly when all other employees are restricted from coming into the workplace), the  
28 mandatory employees shall be granted hazard pay of at least 1.5 or an equivalent ratio in  
29 compensatory time for hours worked onsite up to 40 hours in a work week. It is the agency head's  
30 discretion to determine any other appropriate compensation options based on the availability of  
31 funds, operational needs of the agency, and in consideration of the duties being performed.  
32 Compensatory time must be used within 24 months of it being awarded, or it will expire.  
33 Agencies shall make every effort to give employees the opportunity to take this time off.  
34 Compensatory time earned during a public health emergency is not paid out at expiration or upon  
35 separation and does not transfer to another State agency. This provision applies to all designated  
36 mandatory employees, both exempt and nonexempt, under the Fair Labor Standards Act (FLSA).

37 (g) Discipline and Appeals. – Individuals designated as mandatory employees may be  
38 subject to disciplinary action, up to and including termination of employment, for willful failure  
39 to report for or remain at work. Each situation will be reviewed on a case-by-case basis to  
40 determine appropriate action. A mandatory employee may appeal the denial of an exemption,  
41 any disciplinary action under this section, or both, pursuant to G.S. 126-34.02.

42 (h) Applicability. – This section applies to all State employees, whether or not they are  
43 exempt or nonexempt from the provisions of this Chapter."

44 **SECTION 2.(a)** G.S. 126-8 reads as rewritten:

45 **"§ 126-8. Minimum leave granted State employees.**

46 The Except as otherwise authorized by G.S. 126-8.6(f), the amount of vacation leave granted  
47 to each full-time State employee subject to the provisions of this Chapter shall be determined in  
48 accordance with a graduated scale established by the State Human Resources Commission which  
49 shall allow the equivalent rate of not less than two weeks' vacation per calendar year, prorated  
50 monthly, cumulative to at least 30 days. On December 31 of each year, any State employee who  
51 has vacation leave in excess of the allowed accumulation shall have that leave converted to sick

1 leave. Sick leave allowed as needed to such State employees shall be at a rate not less than 10  
2 days for each calendar year, cumulative from year to year. Notwithstanding any other provisions  
3 of this section, no full-time State employee subject to the provisions of Chapter 126, as the same  
4 appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973,  
5 shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative  
6 to at least 30 days."

7 **SECTION 2.(b)** G.S. 126-34.02(b) is amended by adding a new subdivision to read:

8 "(b) The following issues may be heard as contested cases after completion of the agency  
9 grievance procedure and the Office of State Human Resources review:

10 ...

11 (7) Treatment of mandatory employees. – A mandatory employee may appeal the  
12 denial of an exemption, the adequacy of the amount of hazard pay, and any  
13 disciplinary action under G.S. 126-8.6."

14 **SECTION 2.(c)** The Legislative Research Commission shall study the practices of  
15 private and local governmental employers in this State regarding hazard pay for their employees  
16 and report its findings and any legislative proposals to the 2021 General Assembly upon its  
17 convening.

18 **SECTION 3.** There is appropriated from the General Fund to the Office of State  
19 Budget and Management the sum of five million dollars (\$5,000,000) for the 2020-2021 fiscal  
20 year to fund mandatory employee hazard pay and otherwise implement the provisions of this act.

21 **SECTION 4.** Section 3 of this act becomes effective July 1, 2020. The remainder of  
22 this act is effective when it becomes law.