

Article 2.

Salaries, Promotions, and Leave of State Employees.

§ 126-7. Compensation of State employees.

(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 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(a1) Repealed by Session Laws 1993, c. 388, s. 1.

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

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

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

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

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

- (1) The performance appraisal system of each department, agency, or institution shall be designed and administered to ensure that career growth recognition awards, cost-of-living adjustments, and performance bonuses are distributed fairly.
- (2) To be eligible to distribute career growth recognition awards, cost-of-living adjustments, and performance bonuses, a department, agency, or institution shall have an operative performance appraisal system which has been approved by the

Commission. The performance appraisal system adopted shall use a rating scale of five levels, with level four or better qualifying for performance bonuses, level three or better qualifying for career growth recognition awards, and level two or better qualifying for cost-of-living adjustments. The performance appraisal system adopted shall adhere to modern personnel management techniques and practices in common use in the public and private sectors.

(3) The State Personnel Director shall help departments, agencies, and institutions to establish and administer their performance appraisal systems and shall provide initial and ongoing training in performance appraisal and performance system administration.

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

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

(4b) An employee whose performance is rated at or above level two of the rating scale and who has not received a suspension without pay or demotion that has not been resolved shall receive a cost-of-living increase. Other than the Commission, no agency, department, or institution shall set limits or initiate written disciplinary procedures for the purpose of precluding an eligible employee from receiving a cost-of-living adjustment.

(5) Repealed by Session Laws 1993, c. 388, s. 1.

(5a) Repealed by Session Laws 1993, c. 388, s. 1.

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

(7) An employee who disputes the fairness of his or her performance appraisal or the amount of a performance bonus awarded or who believes that he or she was unfairly denied a career growth recognition award or performance bonus shall first discuss the problem with his or her supervisor. Appeals of the supervisor's decision shall be made only to the grievance committee or internal performance review board of the department, agency, or institution which shall make a recommendation to the head of the department, agency, or institution for final decision, or when consented to by both the agency and the employee, the supervisor's decision may be appealed by following the alternative dispute resolution process adopted by the State Personnel Commission. The State Personnel Director shall help a department, agency, or institution establish an internal performance review board or, if it includes employee members, to use its

existing grievance committee to hear performance pay disputes. Notwithstanding G.S. 150B-2(2) and G.S. 126-22, 126-25, and 126-34, performance pay disputes, including disputes about individual performance appraisals, shall not be considered contested case issues.

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

- a. Agency salary increase and award policies to determine whether this section and any guidelines promulgated by the State Personnel Commission have been adhered to;
- b. Agency training and education programs to determine whether all employees receive appropriate information; and
- c. Performance appraisal ratings within the department, agency, or institution to determine whether an equitable distribution has been made.

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

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

(8) The State Personnel Director shall monitor the performance appraisal system and the distribution of salary increases and awards within each department, agency, and institution. Each department, agency, and institution shall submit to the Director annual reports which shall include data on the demographics of performance ratings, the frequency of evaluations, the distribution of salary increases and awards, and the implementation schedule for salary increases and awards. The Director shall analyze the data to ensure that salary increases and awards are distributed fairly within each department, agency, and institution and across all departments, agencies, and institutions of State government and shall report back to each department, agency, and institution on its appraisal and distribution performance.

(9) The State Personnel Director shall report annually on the Comprehensive Compensation System to the Commission. The report shall evaluate the performance of each department, agency, and institution in the administration of its appraisal system and the distribution of salary increases and awards within each department, agency, and institution and across State government. The report shall include recommendations for improving the performance appraisal system and alleviating inequities. Copies of the report, as adopted by the State Personnel Commission, shall be sent to the Governor, Lieutenant Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, the standing personnel committees of the House of Representatives and the Senate, and the State Auditor. The State Personnel Director shall recommend to the General Assembly for its approval sanctions to be levied against departments, agencies, and institutions that have deficient performance

appraisal systems or that do not link salary increases and awards to employee job performance. These sanctions may include withholding salary increases and awards from the managers and supervisors of individual employing units of departments, agencies, and institutions in which discrepancies exist.

(10) Repealed by Session Laws 1993, c. 388, s. 1.

(d) Repealed by Session Laws 1993, c. 388, s. 1.

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

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

(2) To the extent that expansion funds are available, the Comprehensive Compensation System shall receive an additional appropriation to fund cost-of-living adjustments. Any remaining available funds shall next be allocated to provide for performance bonuses. The level of the performance bonus allocation shall not exceed two percent (2%) of the total employee payroll. (1965, c. 640, s. 2; 1975, c. 667, s. 2; 1977, c. 802, s. 40.5; c. 866, s. 6; 1977, 2nd Sess., c. 1213; 1989, c. 796; 1989 (Reg. Sess., 1990), c. 1025, s. 1; c. 1028; 1991, c. 689, s. 187(b)-(e); 1993, c. 388, s. 1; 1995, c. 141, s. 6; c. 509, s. 67; 1998-212, s. 28.16B(a).)