

Civilianization of Selected Law Enforcement Job Classes

Prepared by Price Waterhouse
for
KPMG Peat Marwick
Government Services Management Consultants
for
North Carolina General Assembly
Government Performance Audit Committee

CIVILIANIZATION OF SELECTED LAW ENFORCEMENT JOB CLASSES

Issue Statement

Should the state "civilianize" job classes which the Office of State Personnel has determined do not require sworn law enforcement officer status as a requirement to perform the essential duties of the position?

In its 1991 report to the Joint Legislative Commission on Governmental Operations, Systems Design Group recommended the following (Recommendation B-4):

"We propose that these classes be 'civilianized' upon vacancy:

- Security Chief – Agriculture
- Security Officers – Cultural Resources – Archives
- Security Officers – Cultural Resources – Arts
- Security Officers – State Schools* and Hospitals
- Security Officers – Justice
- Security Officers – Training and Standards
- Hunter and Boater Safety Coordinator
- Insurance Investigators and Supervisors
- Securities and Commodities Investigators and Supervisors
- Port Police
- General Assembly Police
- Motor Vehicle Process Officers and Supervisors
- Motor Vehicle Law Enforcement – Inspectors and Supervisors
- Historic Site Manager
- Safety Officers
- Parks Operations Chief
- SBI Forensic Photographer
- SBI Forensic Chemist
- SBI Forensic Chemist II
- SBI Forensic Chemist III
- SBI Forensic Chemist Supervisor III
- SBI Forensic Chemist Supervisor IV

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SBI Forensic Serologist I
SBI Forensic Serologist II
SBI Forensic Serologist Supervisor
SBI Forensic Analyst I
SBI Latent Evidence Technician
SBI Latent Evidence Supervisor
Special Investigator – Medicaid Fraud
SBI Latent Evidence Assistant Supervisor
Wildlife Enforcement Training Director
Special Investigation Supervisor
Assistant Director of Crime Laboratory
SBI Fingerprint Identification Supervisor
Criminal Information Auditor
Criminal Information Audit Supervisor
Criminal Information Training Specialist
Scales Mechanic
Administrative Assistant
Parking Control Supervisor
Medicaid Fraud Investigator Supervisor
SBI Assistant Director – Administrative Services
Locksmith II
Motor Vehicle Training Coordinator
Automated Fingerprint ID Systems Manager
Driver Service Training Officer
Staff Development Specialist I
Departmental Purchasing Agent II
Computer System Coordinator I
Fingerprint ID Technician II
Fingerprint ID Processing Supervisor
Deputy Director Medicaid Fraud
ALE Training Coordinator
Wildlife Telecommunication Manager.”

Background

In conducting the study published in 1991, Systems Design Group was asked to respond to several questions regarding how North Carolina compensates and classifies its state law enforcement officers. Among those questions was one concerning whether certain position classifications in North Carolina state government required a sworn law enforcement officer to discharge the essential duties of the position.

The Office of State Personnel is responsible for the classification of positions for all state departments. The Office has not developed formal criteria for determining whether a position should be classified in a manner that only a sworn law enforcement officer could fill the position requirements.

Findings

1. Systems Design Group based its findings and recommendations on a detailed, point-factor job evaluation methodology that was consistent with sound personnel management practices. Based on our review of Systems Design Group's methodology and results, we could find no reason to question their findings. None of the positions outlined for civilianization in the Systems Design Groups study appear to require law enforcement status as a necessary condition to discharge the essential duties of the position. While several of the positions may *occasionally* involve activities requiring the capabilities of a law enforcement officer, such capabilities are not needed to discharge the essential or primary duties of the position.
2. Systems Design Group proposed a three-part definition of a state law enforcement officer (page C-11) as someone who:
 - a. Needs the power of arrest to perform his/her essential duties;
 - b. Needs to be armed to carry out his/her essential duties; and
 - c. Is required by the Criminal Justice Education and Training Standards Commission to be certified and, as such, must attend and pass a core law enforcement curriculum.

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3. Based on our interviews with its staff, the Office of State Personnel does not appear to have a consistent methodology for assessing whether a classification requires sworn law enforcement status.
4. As a consequence of the positions listed above being filled by sworn law enforcement officers, the state is providing additional compensation (5% employer 401(k) payments and special separation allowance) over and above the normal compensation (salary and TSERS retirement contribution) required if civilians performed the same duties. This raises the overall state cost of performing these duties above what it would otherwise need to be.
5. This extra cost has arisen in many job classes because the state has followed an informal practice of allowing persons who have elsewhere attained sworn law enforcement officer status to continue to receive law enforcement officer fringe benefits even when they transfer to or fill a position that does not require such status to discharge the essential duties of the position. We could find no statute that authorized or prohibited such practices.

This practice runs counter to standard budgetary, compensation, and personnel management practices of most modern public sector organizations. In such systems, compensation (including retirement benefits) is determined by the requirements of the *position* and labor market compensation trends. Budgets are then established based on those requirements. Individuals who fill such positions are not entitled to any more compensation than allowed by the position compensation guidelines and the annual budget, regardless of any other personal qualifications they may bring to the position.

Consider this example. The Systems Design Study found that the Criminal Information Auditor position does not inherently require sworn status. Under normal conditions, the Office of State Personnel would determine the pay grade needed to recruit qualified persons to the position. Persons in the position would then be entitled to receive the same benefits as other regular state employees. However, if it is filled by a person who is a sworn law enforcement officer, then current practice allows that person to retain all of his benefits as a sworn law enforcement officer (401(k), special separation allowance). All other things being

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equal, this results in at least 5% higher annual costs for the state (mandatory 5% employer paid 401(k) retirement plan for law enforcement personnel). Actual costs will be higher if the person filling the job becomes eligible for the special separation allowance available only to law enforcement officers.

Recommendations

1. Using the Systems Development Group criteria as a guide, the Office of State Personnel should develop formal policies and procedures for determining when a position should be filled a sworn law enforcement officer in order to discharge the essential duties of the position. It should apply those policies and procedures consistently across all state agencies and departments.
2. The General Assembly should enact a statute that prohibits state agencies from using budgeted funds to pay law enforcement officer benefits to persons filling positions that do not require such status as a basic requirement for the job. (A "grandfather" provision is discussed below.)
3. Those positions which are identified in the Systems Design Group report as "classes to be civilianized" should be civilianized upon *vacancy* (see SDG recommendations at the beginning of this issue paper). This will minimize personal financial hardship for persons currently occupying these positions.

Implications

1. The state would no longer pay law enforcement benefits to state employees who no longer perform the duties of a sworn law enforcement officer (i.e., scales mechanic, criminal information auditor, parking control supervisor). This will result in at least a 5% compensation savings for the positions affected. These savings will be realized as turnover occurs in the positions listed above.

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Implementation Considerations

1. This change will create a "two-tier" pay system in the affected job classes ("old" employees who receive higher benefits versus "new" employees who don't) during a transition period. This may create morale problems.
2. In order to maintain the integrity of the overall pay and classification system, the General Assembly will have to resist future requests for special legislation extending law enforcement officer retirement benefits to positions that do not inherently require such status.