

2001

**HOUSE
STATE PERSONNEL**

MINUTES

NORTH CAROLINA GENERAL ASSEMBLY
HOUSE STATE PERSONNEL COMMITTEE
2001 – 2002 SESSION



Rep. Hensley
Chair



Rep. Womble
Chair



Rep. Fitch
Vice-Chair



Rep. Bell



Rep. Easterling



Rep. Ellis



Rep. Kiser



Rep. Oldham



Rep. Russell



Rep. Sherrill



Rep. Underhill



Rep. Walker

HOUSE COMMITTEE ON STATE PERSONNEL

MEMBERSHIP

| Member | Assistant | Phone | Office | Seat |
|--------------------------------|------------------|--------------|---------------|-------------|
| Hensley, Bob, Co-Chair | Margie Penven | 3-5780 | 610 LOB | 79 |
| Womble, Larry, Co-Chair | Dorothy McLean | 3-5777 | 537 LOB | 56 |
| Fitch, Toby, Vice-Chair | Carolyn Branch | 5-2241 | 1202 LB | 27 |
| Bell, Larry, | Carolyn Edwards | 3-5863 | 531 LOB | 96 |
| Easterling, Ruth | Marie Horn | 3-5900 | 631 LOB | 6 |
| Ellis, Sam | Alice Falcone | 3-5755 | 607 LOB | 116 |
| Kiser, Joe | Marilyn Holder | 3-5782 | 1317 LB | 100 |
| Oldham, Pete | Delta Prince | 5-2530 | 634 LOB | 58 |
| Russell, Carolyn | Susan Brothers | 5-0873 | 1213 LB | 103 |
| Sherrill, Wilma | Rosa Kelley | 5-3026 | 403 LOB | 37 |
| Walker, Tracy | Barbara Powell | 3-5935 | 1111 LB | 107 |

House Committee on State Personnel
2001-2001 Session

[illegible]

North Carolina General Assembly
Through House Committee on
State Personnel

Date: 12/05/2001
Time: 14:18
Page: 001 of 001
Leg. Day: H-178/S-172

2001-2002 Biennium

| Bill | Introducer | Short Title | | Latest Action | In Date | Out Date |
|-------------|------------------|---|-----------|----------------------------------|----------|----------|
| 441= | Gibson | STATE EMPLOYEES INCENTIVE BONUS PROGRAM. | *H | Re-ref Com On Appropriations | 03-01-01 | 04-19-01 |
| H1182= | Bell | NONLICENSED LOCAL SCHOOL EMPLOYEES UNDER SPA. | H | Re-ref Com On Appropriations | 04-12-01 | 04-18-01 |
| S0976 | R. C. Soles, Jr. | EXEMPT EMPLOYEE CHANGES. | *H | Ref To Com On State Personnel | 04-30-01 | |

'\$' indicates the bill is an appropriation bill.

A bold line indicates the bill is an appropriation bill.

'*' indicates that the text of the original bill was changed by some action.

'=' indicates that the original bill is identical to another bill.

MINUTES
HOUSE COMMITTEE ON
STATE PERSONNEL
April 18, 2001

The House Committee on State Personnel met at 12:00 noon on Wednesday, April 18, 2001, in Room 1425 of the Legislative Building. The agenda for the meeting is attached as Exhibit 1. The following members of the committee were present: Representatives Bob Hensley and Larry Womble, Chairs, and Representatives Larry Bell, Sam Ellis, Wilma Sherrill, Lois Underhill, and Tracy Walker. The visitor registration sheet is attached as Exhibit 2. The House page assisting with the meeting was Ms. Stephanie Joyner from Wayne County.

Rep. Hensley presided and called the meeting to order at 12:00 noon. He recognized Rep. Pryor Gibson to explain a proposed committee substitute for House Bill 441, A BILL TO BE ENTITLED AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEES INCENTIVE BONUS PROGRAM, ARTICLE 36A OF CHAPTER 143 OF THE GENERAL STATUTES. The Committee substitute changed the title to A BILL ENTITLED AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEE INCENTIVE BONUS PROGRAM, ARTICLE 36A OF CHAPTER 143 OF THE GENERAL STATUTES.

Rep. Gibson explained the proposed committee substitute bill and Rep. Ellis moved for its adoption. The motion passed unanimously. Rep. Ellis moved for a favorable report for the committee substitute bill, unfavorable as to the original bill. The motion passed unanimously.

The Chair recognized Rep. Bell to explain House Bill 1182, A BILL TO BE ENTITLED AN ACT PROVIDING NONLICENSED EMPLOYEES OF LOCAL SCHOOL BOARDS WITH COVERAGE UNDER THE STATE PERSONNEL ACT THAT IS SIMILAR TO THE COVERAGE OF OTHER LOCAL EMPLOYEES.

Rep. Bell said the bill would put certain school workers, such as custodial workers, under the State Personnel Act. Presently those workers serve at the will of the hiring authority. The provisions of the bill would help workers who are dismissed, demoted, or suspended without pay.

Rep. Ellis asked whether teachers and teacher assistants would be included in the bill. Rep. Bell said teachers were already covered, but teacher assistants, secretaries, and office workers would be covered under the new bill, once a person were employed over 24 hours.

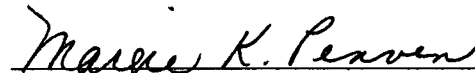
Rep. Bell said there would be no additional personnel needed to implement the bill. He said when a case got complicated, the school attorney might get involved.

Rep. Hensley recognized Jan Crotts, N. C. Association of School Administrators, Jim Causby, Superintendent of Johnston County School Boards, Leanne Winner, N. C. School Boards Association, Joyce Elliott, N. C. Association of Educators, Tom Stern, NCAE Attorney, and J. B. Buxton, State Board of Education, for their comments.

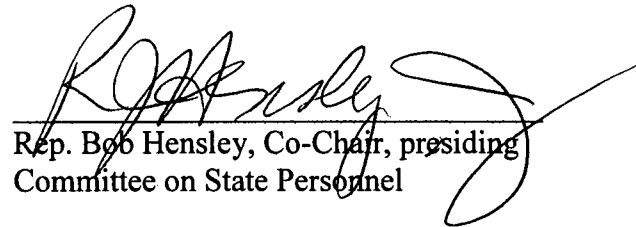
Upon a motion by Rep. Womble, the bill received a favorable report.

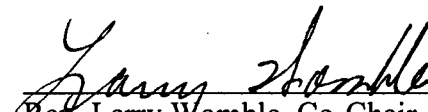
The meeting adjourned at 12:50 p.m.

Respectfully submitted,


Margie K. Penven, Committee Assistant
Committee on State Personnel

Approved:


Rep. Bob Hensley, Co-Chair, presiding
Committee on State Personnel


Rep. Larry Womble, Co-Chair
Committee on State Personnel

Attachments

Agenda
Visitor Registration Sheet
Explanation of HB 441
Committee Report for HB 441
Explanation of HB 1182
Committee Report for HB 1182

A G E N D A
House Committee On
State Personnel
April 18, 2001

Call to Order

HB 441, State Employees Incentive Bonus Program-AB (Rep. Gibson)

HB 1182, Nonlicensed Local School Employees Under SPA (Rep. Bell)

VISITOR REGISTRATION SHEET

STATE PERSONNEL

Name of Committee

4-18-01

Date _____

VISITORS: PLEASE SIGN BELOW AND RETURN TO COMMITTEE CLERK

NAME _____

FIRM OR AGENCY AND ADDRESS

Carl Goodyear

OSP

Susan Harris

uCP55

Ana Belar

Beilama Assoc.

Andrew R. Galloway

NCAQ

Tom Stern V

NCAE

Jim Canby

NCA 5A

Jan Cratt

N.C.A.S.D.

Joyce Elliott

NCGE

Cecil Cohen

NCAE

Robert Charles

NCASA

Leanne Kinnin

NCSEA

GARY JARRETT

DP1

DB 95

SBE

BALLARD Everitt

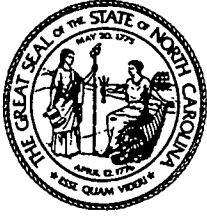
www.ck12.org

Penyanyan

Sp

A. Jami Craig

LCA



HOUSE BILL 441: State Employees Incentive Bonus Program

BILL ANALYSIS

Committee: House State Personnel
Date: April 17, 2001
Version: 1st Edition

Introduced by: Representative Gibson
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 441 amends the State Employee Incentive Bonus Program.*

CURRENT LAW/BACKGROUND: The State Employee Incentive Bonus Program allows a State employee or team of State employees to receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public. The program is outlined in Article 36A of Chapter 143 of the General Statutes.

BILL ANALYSIS:

Section 1 amends G.S. 143-340(1) which covers the powers and duties of the Secretary of Administration. This amendment establishes the Secretary as an ex officio on all program committees and directs the designation of an executive secretary to administer the State Employee Incentive Bonus Program.

Section 2 amends G.S. 143-345.20 by deleting the definition of employing unit, adding the definition of Participating agency, and specifying that SEIBP is the acronym for the State Employee Incentive Bonus Program. A participating agency is defined as any State department, agency, or institution, or any local school administrative unit that employs State employees, the Community Colleges System, The University of North Carolina and its constituent universities, and charter schools. Federal or local government agencies are not participating agencies.

Section 3 amends G.S. 143-345.21 in the following ways:

- To specify that the amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation and that no bonus shall be paid prior to the expiration of 12 months. Payment may be delayed further to ensure a complete cost implementation cycle is fully evaluated.
- Any savings realized shall be weighed against continued service to the public and the assurance that there is not a negative impact on State programs.
- Federal and local government funds, corporate and foundation grant funds are excluded from SEIBP.
- The Department of Administration shall establish a SEIBP reserve fund in which savings shall be deposited. The Office of State Budget, Planning, and Management shall have oversight responsibility.
- Awards shall not be made until reversion requirements and distributions required by G.S. 143-345.22 are satisfied.
- In certain cases, implementation costs may be prorated over three years.
- The establishment of a nonreverting fund for the training and education of permanent State employees. The fund is established in the Department of Administration and administered by the Office of State Personnel.

Section 4 amends G.S. 143-345.22 to specify that of the annualized savings or increased revenue:

- 20% is awarded to the employee(s) and shall not revert
- 10% is allocated to the implementing agency for nonrecurring budget items.
- 10% is allocated to the Department of Administration for funding, management and administration of the SEIBP and shall not revert.
- 10% is allocated to the state employee education and training fund and shall not revert.
- The remainder goes to the General Fund for nonrecurring budget items.

HOUSE BILL 441

Page 2

Section 5 amends G.S. 143-345.23 to define and clarify the roles of the agency coordinator, agency evaluator, and State coordinator. The agency coordinator shall be appointed by the head of each participating agency to serve as a liaison between the agency, the suggester, the agency evaluator, and the SEIBP office. The agency evaluator shall be designated by the management of the implementing agency to evaluate one or more suggestions. The State coordinator shall be responsible for day-to-day SEIBP program management and administration of the technical aspects of the program. The State coordinator shall be an ex officio voting member of the State Review Committee.

Section 6 makes conforming amendments to G.S. 143-345.24 covering the Incentive Bonus Review Committee.

Section 7 amends G.S. 143-345.25 specifying that all suggestions or innovations submitted by State employees pursuant to this Article are the property of the State and all related intellectual property rights shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall establish a policy regarding intellectual property rights that arise from the SEIBP.

Section 8 specifies that this act becomes effective July 1, 2001, and applies to State employee suggestions and innovations submitted on or after that date.

HI182-SMSH-001

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Hensley and Womble** (Chair/Chairs) for the Committee on **State Personnel**.

☐ Committee Substitute for

H.B. 441 A BILL TO BE ENTITLED AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEES INCENTIVE BONUS PROGRAM, ARTICLE 36A OF CHAPTER 143 OF THE GENERAL STATUTES.

☐ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the Committee on Appropriations ☐ Finance ☐.

☒ With a favorable report as to committee substitute bill, ☒ which changes the title, unfavorable as to original bill.

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

PUBLIC BILL

0441

ID-5747

H.B. _____

SESSION LAW _____

A BILL TO BE ENTITLED

AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEES INCENTIVE BONUS PROGRAM,
ARTICLE 36A OF CHAPTER 143 OF THE GENERAL STATUTES.

Introduced by Representative(s): Gibson.

Burfoot

Principal Clerk's Use Only

FILED 1st READING
MAR 1 2001
AND REFERRED TO COMMITTEE
ON State Personnel

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

1

HOUSE BILL 441

Short Title: State Employees Incentive Bonus Program-AB.

(Public)

Sponsors: Representatives Gibson; and Barefoot.

Referred to: State Personnel.

March 1, 2001

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEES
3 INCENTIVE BONUS PROGRAM, ARTICLE 36A OF CHAPTER 143 OF THE
4 GENERAL STATUTES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-340(1) reads as rewritten:

7 "(1) To establish the State Employee Incentive Bonus Program pursuant to
8 Article 36A of this Chapter, with the authority to adopt all rules
9 necessary to implement the program. The Secretary shall serve ex
10 officio on all program committees and shall designate an executive
11 secretary to administer the program."

12 SECTION 2. G.S. 143-345.20 reads as rewritten:

13 "§ 143-345.20. Definitions.

14 The following definitions apply in this Article:

- 15 (1) Baseline reversion. – The two-year historical average of reversions by
16 a State department, agency, or institution.
- 17 (2) ~~Employing unit. – Any of the following:~~
- 18 a. ~~The principal Council of State office or department enumerated~~
19 ~~in G.S. 143A-11 for which a State employee works.~~
- 20 b. ~~The principal State department enumerated in G.S. 143B-6 for~~
21 ~~which a State employee works.~~
- 22 c. ~~The constituent institution of The University of North Carolina~~
23 ~~or the General Administration of The University of North~~
24 ~~Carolina for which a State employee works.~~
- 25 d. ~~The local school administrative unit for which a State employee~~
26 ~~works.~~
- 27 e. ~~The board, commission, or agency and its staff for which a~~
28 ~~State employee works, if that agency is not organizationally~~

housed in any of the other offices, departments, or institutions listed in this subdivision.

(2a) Participating agency. – Any State department, agency, or institution, or any local school administrative unit that employs State employees eligible to participate in the State Employees Incentive Benefit Program. The term includes the Community Colleges System, The University of North Carolina and its constituent universities, and charter schools. The term does not include federal or local government agencies.

(2b) SEIBP. – Acronym for the State Employees Incentive Bonus Program.

(3) State employee. – Any of the following:

- a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
- b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision."

SECTION 3. G.S. 143-345.21 reads as rewritten:

"§ 143-345.21. State employee incentive bonus.

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

~~(b) In addition to any bonuses paid directly to individual State employees, a portion of the cost savings associated with any savings realized from permanent efficiencies implemented pursuant to this Article may be contributed to a reserve fund for State employee performance bonuses. Funds for State employee incentive bonuses shall only come from savings including reversions above the baseline reversion of the employing State department, agency, or institution.~~

(b1) The amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation. No incentive bonus shall be paid prior to the expiration of 12 months and payment may be delayed further as reasonably required to ensure that a complete cost implementation cycle is evaluated fully.

~~(c) Savings generated by suggestions and innovations shall be determined at the end of the fiscal year in which the suggestion or innovation is implemented or the determination may be carried over for one full fiscal year after implementation before making an award if the actual savings cannot be verified before the end of the fiscal year. Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. The savings or revenue increases realized from any suggestion or innovation implemented for less than~~

1 ~~one full fiscal year shall be annualized.~~ Any savings realized through the State
2 Employee Incentive Bonus Program shall be weighed against continued service to the
3 ~~public.~~ public and the assurance that there is not a negative impact State programs.

4 (d) If a suggestion or innovation affects a program, activity, or service for which
5 no separate budgeted amount has been made, the State Coordinator, in conjunction with
6 the agency evaluator or agency fiscal officer, or both, for that suggestion or innovation,
7 shall determine the budgetary impact of the suggestion or innovation.

8 (e) Federal and local government funds and corporate and foundation grant funds
9 are excluded from the SEIBP.

10 (f) The Department of Administration shall establish a SEIBP reserve fund in
11 which all savings for all suggestions shall be deposited as earned. Each participating
12 agency shall be responsible for transferring savings to the SEIBP reserve fund. The
13 funds may be encumbered as needed to ensure payment to the General Fund, to the
14 suggester, and for distribution as required by G.S. 143-345.22. The Department of
15 Administration shall provide a SEIBP reserve fund summary at the close of each fiscal
16 year to the Office of State Budget, Planning, and Management and to the participating
17 agencies. The Office of State Budget, Planning, and Management shall have oversight
18 responsibility for ensuring that the required reversions and transfers are made to the
19 General Fund and that all encumbered funds are accounted for and paid as required by
20 law.

21 (g) No distribution of suggester awards shall occur until reversion requirements
22 to the General Fund are met and distributions as required by G.S. 143-345.22 are
23 satisfied and verified by the Office of State Budget, Planning, and Management. When
24 all of the requirements of G.S. 143-345.22 are fulfilled, the Department of
25 Administration shall transfer to the suggester's agency funds required to award the
26 suggester. The suggester's agency shall make the suggestion award and ensure that all
27 taxes and withholding requirements are met.

28 (h) Implementation costs may be prorated over a maximum of three years for
29 suggestions or innovations that are capital intensive, involve leading edge technology or
30 involve unconventional processes that require longer than 12 months for
31 implementation. The amount of the average annual savings minus the average annual
32 implementation cost shall be used as the basis for the agency to recommend a suggester
33 award. The State Review Committee shall consult the Office of State Budget, Planning,
34 and Management to make the final award determination in these cases.

35 (i) There is established in the Department of Administration a nonreverting fund
36 to be administered by the Office of State Personnel for the training and education of
37 permanent State employees to address specific mission critical needs and objectives.
38 Funds shall be credited from the SEIBP to the fund as provided by this Article.

39 **SECTION 4. G.S. 143-345.22 reads as rewritten:**

40 **"§ 143-345.22. Allocation of incentive bonus funds; nonmonetary recognition.**

41 (a) If a State employee's suggestion or innovation results in a monetary savings
42 or increased revenue to the State, the funds saved or increased shall be distributed
43 according to the following scale or subject to guidelines as set forth by the funding
44 source:

- (1) Twenty percent (20%) of the annualized savings or increased revenues, up to a maximum of twenty thousand dollars (\$20,000) for any one State employee, to constitute gainsharing. If a team of State employees is the suggester, the bonus provided in this subdivision shall be divided equally among the team members, except that no team member ~~may~~ shall receive in excess of twenty thousand dollars (\$20,000), nor ~~may~~ shall the team receive an aggregate amount in excess of one hundred thousand dollars (\$100,000). These funds shall not revert.
- (2) Thirty percent (30%) ~~for all current employees in the work unit, as designated by the agency head, of the employing unit of the suggester.~~ allocated as follows:
- a. Ten percent (10%) to the implementing agency for nonrecurring budget items to be used (i) first by the implementing agency to provide equipment, supplies, training, and limited but appropriate recognition for the division, section, or group responsible for the implementation of the cost saving measure and (ii) second to meet other similar needs within the agency.
 - b. Ten percent (10%) to the Department of Administration for augmenting funding for the management and administration of the SEIBP. These funds shall not revert.
 - c. Ten percent (10%) to the State employee education and training fund administered by the Office of State Personnel under G.S. 143-342.21(i). These funds shall not revert.
- (3) The remainder to the General Fund for nonrecurring budget items.
- (a) Of the pool of funds identified in subsection (a) of this section, only the General Fund appropriations shall be subject to reversion, except during declared budget emergencies. Under nonemergency budget conditions, SEIBP funds arising from savings at The University of North Carolina, the Community Colleges System, the Highway Trust Fund, enterprise funds, and receipt supported organizations shall be exempt from the General Fund reversion requirements.
- (b) The budget of a State agency shall not be reduced in the following fiscal year by an amount similar to the monetary savings or increased revenues realized by the State Employee Incentive Bonus Program. The agency budget shall be reduced in subsequent years only if structural or organizational changes are made that warrant the reductions, including the transfer of responsibility for an activity or service to another agency or the elimination of some function of State government.
- (c) If a suggestion or innovation results in improved quality of services to the public or to other State agencies, departments, and institutions, but not in monetary savings to the State, the suggester shall receive a nonmonetary award in the form of a certificate, leave with pay, or other similar recognition."

SECTION 5. G.S. 143-345.23 reads as rewritten:

"§ 143-345.23. Suggestion and review process; role of agency coordinator and agency evaluator.

1 (a) The process for a State employee or team of State employees to submit a
2 cost-saving or revenue-increasing proposal shall begin ~~by~~ with the employee or team of
3 employees submitting the suggestion or innovation to an agency ~~coordinator designated~~
4 ~~by the State department, agency, or institution impacted by the suggestion or~~
5 ~~innovation.~~ coordinator. The agency coordinator, in conjunction with an agency
6 evaluator, shall review the suggestion or innovation for submission to the State Review
7 Committee established in G.S. 143-345.14. G.S. 143-345.24.

8 (b) An agency coordinator shall be appointed by the head of each participating
9 agency to serve as liaison between the agency, the suggester, the agency evaluator, and
10 the SEIBP office. The duties of the agency coordinator shall include:

- 11 (1) Serving as an information source and maintaining sufficient forms
12 necessary to submit suggestions.
- 13 (2) ~~Responsibility for presenting,~~ Presenting, in conjunction with the
14 agency evaluator, the ~~plan of implementation for a suggestion or~~
15 ~~innovation— recommendation for an award to the State Review~~
16 ~~Committee.~~
- 17 (3) Working in conjunction with the agency evaluator ~~designated by the~~
18 ~~Agency Coordinator for~~ to process a particular suggestion or
19 ~~innovation.~~ innovation within 180 days, except when there are
20 extenuating circumstances.

21 An agency may have more than one coordinator if required to provide sufficient
22 services to State employees.

23 (c) An agency evaluator shall be designated by the management of the
24 implementing agency to evaluate one or more suggestions. The duties of an agency
25 evaluator shall include:

- 26 (1) ~~Reviewing—~~ Receiving from the agency coordinator and reviewing
27 within 90 days, when possible, the feasibility and effectiveness of
28 cost-saving or revenue-increasing measures suggested by State
29 employees.
- 30 (2) Being knowledgeable of the subject program, activity, or service.
- 31 (3) Determining, in conjunction with the agency fiscal officer, the
32 budgetary impact of a suggestion or innovation.
- 33 (4) Judging impartially both the positive and negative effects of a
34 suggestion or innovation on the current functions of the subject
35 program, activity, or service.

36 ~~The specific assignments of the agency evaluator shall be determined by the agency~~
37 ~~coordinator.~~

38 (d) ~~The State Coordinator— executive secretary~~ shall be responsible for general
39 oversight and coordination of the State Employee Incentive Bonus Program. The State
40 ~~Coordinator— coordinator~~ shall be a ~~State— an~~ employee ~~working in of~~ the Department of
41 Administration. The State coordinator shall be responsible for day-to-day SEIBP
42 program management and administration of the technical aspects of the program. The
43 State coordinator shall be an ex officio voting member of the State Review Committee."

44 SECTION 6. G.S. 143-345.24 reads as rewritten:

1 "§ 143-345.24. Incentive Bonus Review Committee.

2 (a) The Incentive Bonus Review Committee, hereinafter "State Review
3 Committee", shall consist of nine members, as follows:

4 (1) The State Coordinator.

5 (2) A representative of the Office of State Budget, Planning, and
6 Management.

7 (3) A representative of the Office of State Personnel.

8 (4) A representative of The University of North Carolina.

9 (5) A representative of the Department of Justice.

10 (6) A representative of the Department of Labor.

11 (7) One State employee appointed by the Speaker of the House of
12 Representatives.

13 (8) One State employee appointed by the President Pro Tempore of the
14 Senate.

15 (9) One State employee appointed by the Governor upon the
16 recommendation of the State Employees Association of North
17 Carolina, Inc.

18 (b) The duties of the State Review Committee shall include:

19 (1) ~~Responsibility for receiving~~ Receiving from the various agency
20 coordinators recommendations on ~~suggestion and innovation~~
21 ~~implementation plans~~ suggestions and innovations.

22 (2) Determining the impact of a suggestion or innovation on State
23 government services by judging the monetary savings, increased
24 revenues, or improved quality of services generated by a suggestion or
25 innovation.

26 (3) Ensuring that the State employee incentive bonus process does not
27 result in a negative impact on services provided to taxpayers by State
28 government.

29 (c) All administrative, management, clerical, and other functions and services
30 required by the State Review Committee shall be supplied by the Department of
31 Administration. The Department of Administration and the State Review Committee
32 shall report annually to the Joint Legislative Commission on Governmental Operations
33 on the administration of the State Employee Incentive Bonus Program."

34 SECTION 7. G.S. 143-345.25 reads as rewritten:

35 "§ 143-345.25. ~~Effect~~ Innovations deemed property of the State; effect of decisions
36 regarding bonuses.

37 (a) All suggestions or innovations submitted by State employees pursuant to this
38 Article are the property of the ~~State~~. State and all related intellectual property rights
39 shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall
40 establish a policy regarding intellectual property rights that arise from the SEIBP.

41 (b) Decisions regarding the award of bonuses by the agency coordinator and the
42 State Review Committee are final and are not subject to review under the contested case
43 procedures of Chapter 150B of the General Statutes."

1 **SECTION 8.** This act becomes effective July 1, 2001, and applies to State
2 employee suggestions and innovations submitted on or after that date.

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

H

D

HOUSE BILL 441
PROPOSED COMMITTEE SUBSTITUTE H441-CSSH-20 [v.2]

4/18/2001 11:39:32 AM

Short Title: State Employees Incentive Bonus Program-AB.

(Public)

Sponsors:

Referred to:

March 1, 2001

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE PROVISIONS OF THE STATE EMPLOYEE
3 INCENTIVE BONUS PROGRAM, ARTICLE 36A OF CHAPTER 143 OF THE
4 GENERAL STATUTES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 143-340(1) reads as rewritten:

7 "(1) To establish the State Employee Incentive Bonus Program pursuant to
8 Article 36A of this Chapter, with the authority to adopt all rules
9 necessary to implement the program. The Secretary shall serve ex
10 officio on all program committees and shall designate an executive
11 secretary to administer the program."

12 SECTION 2. G.S. 143-345.20 reads as rewritten:

13 "§ 143-345.20. Definitions.

14 The following definitions apply in this Article:

- 15 (1) Baseline reversion. – The two-year historical average of reversions by
16 a State department, agency, or institution.
- 17 (2) Employing unit. Any of the following:
- 18 a. ~~The principal Council of State office or department enumerated~~
19 ~~in G.S. 143A-11 for which a State employee works.~~
- 20 b. ~~The principal State department enumerated in G.S. 143B-6 for~~
21 ~~which a State employee works.~~
- 22 c. ~~The constituent institution of The University of North Carolina~~
23 ~~or the General Administration of The University of North~~
24 ~~Carolina for which a State employee works.~~
- 25 d. ~~The local school administrative unit for which a State employee~~
26 ~~works.~~
- 27 e. ~~The board, commission, or agency and its staff for which a~~
28 ~~State employee works, if that agency is not organizationally~~

housed in any of the other offices, departments, or institutions listed in this subdivision.

(2a) Participating agency. – Any State department, agency, or institution, or any local school administrative unit that employs State employees eligible to participate in the State Employee Incentive Benefit Program. The term includes the Community Colleges System, The University of North Carolina and its constituent universities, and charter schools. The term does not include federal or local government agencies.

(2b) SEIBP. – Acronym for the State Employee Incentive Bonus Program.

(3) State employee. – Any of the following:

- a. A person who is a contributing member of the Teachers' and State Employees' Retirement System of North Carolina, the Consolidated Judicial Retirement System of North Carolina, or the Optional Program.
- b. A person who receives wages from the State as a part-time or temporary worker, but is not otherwise a contributing member of one of the retirement programs listed in sub-subdivision a. of this subdivision."

SECTION 3. G.S. 143-345.21 reads as rewritten:

"§ 143-345.21. State employee incentive bonus.

(a) A State employee or team of State employees may receive an incentive bonus or bonuses in reward for suggestions or innovations resulting in monetary savings to the State, increased revenues to the State, or improved quality of services delivered to the public.

~~(b) In addition to any bonuses paid directly to individual State employees, a portion of the cost savings associated with any savings realized from permanent efficiencies implemented pursuant to this Article may be contributed to a reserve fund for State employee performance bonuses. Funds for State employee incentive bonuses shall only come from savings including reversions above the baseline reversion of the employing State department, agency, or institution.~~

(b1) The amount of savings generated by suggestions and innovations shall be determined after a 12-month period of implementation. No incentive bonus shall be paid prior to the expiration of 12 months and payment may be delayed further as reasonably required to ensure that a complete cost implementation cycle is evaluated fully.

~~(c) Savings generated by suggestions and innovations shall be determined at the end of the fiscal year in which the suggestion or innovation is implemented or the determination may be carried over for one full fiscal year after implementation before making an award if the actual savings cannot be verified before the end of the fiscal year. Any savings are to be calculated using the actual expenditures for a program, activity, or service compared to the budgeted amount for the same, if an amount has been budgeted for the program, activity, or service. The savings calculation shall include the amount of any reversions in excess of the baseline reversion. The savings or~~

1 revenue increases realized from any suggestion or innovation implemented for less than
2 one full fiscal year shall be annualized. Any savings realized through the State
3 Employee Incentive Bonus Program shall be weighed against continued service to the
4 public. public and the assurance that there is not a negative impact on State programs.

5 (d) If a suggestion or innovation affects a program, activity, or service for which
6 no separate budgeted amount has been made, the State Coordinator, in conjunction with
7 the agency evaluator or agency fiscal officer, or both, for that suggestion or innovation,
8 shall determine the budgetary impact of the suggestion or innovation.

9 (e) Federal and local government funds and corporate and foundation grant funds
10 are excluded from the SEIBP.

11 (f) The Department of Administration shall establish a SEIBP reserve fund in
12 which all savings for all suggestions shall be deposited as earned. Each participating
13 agency shall be responsible for transferring savings to the SEIBP reserve fund. The
14 funds may be encumbered as needed to ensure payment to the General Fund, to the
15 suggester, and for distribution as required by G.S. 143-345.22. The Department of
16 Administration shall provide a SEIBP reserve fund summary at the close of each fiscal
17 year to the Office of State Budget, Planning, and Management and to the participating
18 agencies. The Office of State Budget, Planning, and Management shall have oversight
19 responsibility for ensuring that the required reversions and transfers are made to the
20 General Fund and that all encumbered funds are accounted for and paid as required by
21 law.

22 (g) No distribution of suggester awards shall occur until reversion requirements
23 to the General Fund are met and distributions as required by G.S. 143-345.22 are
24 satisfied and verified by the Office of State Budget, Planning, and Management. When
25 all of the requirements of G.S. 143-345.22 are fulfilled, the Department of
26 Administration shall transfer to the suggester's agency funds required to award the
27 suggester. The suggester's agency shall make the suggestion award and ensure that all
28 taxes and withholding requirements are met.

29 (h) Implementation costs may be prorated over a maximum of three years for
30 suggestions or innovations that are capital intensive, involve leading edge technology or
31 involve unconventional processes that require longer than 12 months for
32 implementation. The amount of the average annual savings minus the average annual
33 implementation cost shall be used as the basis for the agency to recommend a suggester
34 award. The State Review Committee shall consult the Office of State Budget, Planning,
35 and Management to make the final award determination in these cases.

36 (i) There is established in the Department of Administration a nonreverting fund
37 to be administered by the Office of State Personnel for the training and education of
38 permanent State employees to address specific mission critical needs and objectives.
39 Funds shall be credited from the SEIBP to the fund as provided by this Article.

40 SECTION 4. G.S. 143-345.22 reads as rewritten:

41 "§ 143-345.22. Allocation of incentive bonus funds; nonmonetary recognition.

42 (a) If a State employee's suggestion or innovation results in a monetary savings
43 or increased revenue to the State, the funds saved or increased shall be distributed

1 according to the following scale or subject to guidelines as set forth by the funding
2 source:

3 (1) Twenty percent (20%) of the annualized savings or increased
4 revenues, up to a maximum of twenty thousand dollars (\$20,000) for
5 any one State employee, to constitute gainsharing. If a team of State
6 employees is the suggester, the bonus provided in this subdivision
7 shall be divided equally among the team members, except that no team
8 member ~~may~~ shall receive in excess of twenty thousand dollars
9 (\$20,000), nor ~~may~~ shall the team receive an aggregate amount in
10 excess of one hundred thousand dollars (\$100,000). These funds shall
11 not revert.

12 (2) Thirty percent (30%) ~~for all current employees in the work unit, as~~
13 ~~designated by the agency head, of the employing unit of the suggester.~~
14 allocated as follows:

15 a. Ten percent (10%) to the implementing agency for nonrecurring
16 budget items to be used (i) first by the implementing agency to
17 provide equipment, supplies, training, and limited but
18 appropriate recognition for the division, section, or group
19 responsible for the implementation of the cost saving measure
20 and (ii) second to meet other similar needs within the agency.

21 b. Ten percent (10%) to the Department of Administration for
22 augmenting funding for the management and administration of
23 the SEIBP. These funds shall not revert.

24 c. Ten percent (10%) to the State employee education and training
25 fund administered by the Office of State Personnel under G.S.
26 143-342.21(i). These funds shall not revert.

27 (3) The remainder to the General Fund for nonrecurring budget items.

28 (a1) Of the pool of funds identified in subsection (a) of this section, only the
29 General Fund appropriations shall be subject to reversion, except during declared
30 budget emergencies. Under nonemergency budget conditions, SEIBP funds arising from
31 savings at The University of North Carolina, the Community Colleges System, the
32 Highway Trust Fund, enterprise funds, and receipt supported organizations shall be
33 exempt from the General Fund reversion requirements.

34 (b) The budget of a State agency shall not be reduced in the following fiscal year
35 by an amount similar to the monetary savings or increased revenues realized by the
36 State Employee Incentive Bonus Program. The agency budget shall be reduced in
37 subsequent years only if structural or organizational changes are made that warrant the
38 reductions, including the transfer of responsibility for an activity or service to another
39 agency or the elimination of some function of State government.

40 (c) If a suggestion or innovation results in improved quality of services to the
41 public or to other State agencies, departments, and institutions, but not in monetary
42 savings to the State, the suggester shall receive a nonmonetary award in the form of a
43 certificate, leave with pay, or other similar recognition."

SECTION 5. G.S. 143-345.23 reads as rewritten:

"§ 143-345.23. Suggestion and review process; role of agency coordinator and agency evaluator.

(a) The process for a State employee or team of State employees to submit a cost-saving or revenue-increasing proposal shall begin ~~by~~ with the employee or team of employees submitting the suggestion or innovation to an agency coordinator ~~designated by the State department, agency, or institution impacted by the suggestion or innovation.~~ coordinator. The agency coordinator, in conjunction with an agency evaluator, shall review the suggestion or innovation for submission to the State Review Committee established in G.S. 143-345.14. G.S. 143-345.24.

(b) An agency coordinator shall be appointed by the head of each participating agency to serve as liaison between the agency, the suggester, the agency evaluator, and the SEIBP office. The duties of the agency coordinator shall include:

- (1) Serving as an information source and maintaining sufficient forms necessary to submit suggestions.
- (2) ~~Responsibility for presenting,~~ Presenting, in conjunction with the agency evaluator, the ~~plan of implementation for a suggestion or innovation—~~ recommendation for an award to the State Review Committee.
- (3) Working in conjunction with the agency evaluator ~~designated by the Agency Coordinator for~~ to process a particular suggestion or ~~innovation.~~ innovation within 180 days, except when there are extenuating circumstances.

An agency may have more than one coordinator if required to provide sufficient services to State employees.

(c) An agency evaluator shall be designated by the management of the implementing agency to evaluate one or more suggestions. The duties of an agency evaluator shall include:

- (1) ~~Reviewing—~~ Receiving from the agency coordinator and reviewing within 90 days, when possible, the feasibility and effectiveness of cost-saving or revenue-increasing measures suggested by State employees.
- (2) Being knowledgeable of the subject program, activity, or service.
- (3) Determining, in conjunction with the agency fiscal officer, the budgetary impact of a suggestion or innovation.
- (4) Judging impartially both the positive and negative effects of a suggestion or innovation on the current functions of the subject program, activity, or service.

~~The specific assignments of the agency evaluator shall be determined by the agency coordinator.~~

(d) ~~The State Coordinator—~~ executive secretary shall be responsible for general oversight and coordination of the State Employee Incentive Bonus Program. The State ~~Coordinator—~~ coordinator shall be a ~~State~~ an employee ~~working in~~ of the Department of

1 Administration. The State coordinator shall be responsible for day-to-day SEIBP
2 program management and administration of the technical aspects of the program. The
3 State coordinator shall be an ex officio voting member of the State Review Committee."

4 SECTION 6. G.S. 143-345.24 reads as rewritten:

5 "§ 143-345.24. Incentive Bonus Review Committee.

6 (a) The Incentive Bonus Review Committee, hereinafter "State Review
7 Committee", shall consist of nine members, as follows:

8 (1) The State Coordinator.

9 (2) A representative of the Office of State Budget, Planning, and
10 Management.

11 (3) A representative of the Office of State Personnel.

12 (4) A representative of The University of North Carolina.

13 (5) A representative of the Department of Justice.

14 (6) A representative of the Department of Labor.

15 (7) One State employee appointed by the Speaker of the House of
16 Representatives.

17 (8) One State employee appointed by the President Pro Tempore of the
18 Senate.

19 (9) One State employee appointed by the Governor upon the
20 recommendation of the State Employees Association of North
21 Carolina, Inc.

22 (b) The duties of the State Review Committee shall include:

23 (1) ~~Responsibility for receiving~~ Receiving from the various agency
24 coordinators recommendations on ~~suggestion and innovation~~
25 ~~implementation plans~~ suggestions and innovations.

26 (2) Determining the impact of a suggestion or innovation on State
27 government services by judging the monetary savings, increased
28 revenues, or improved quality of services generated by a suggestion or
29 innovation.

30 (3) Ensuring that the State employee incentive bonus process does not
31 result in a negative impact on services provided to taxpayers by State
32 government.

33 (c) All administrative, management, clerical, and other functions and services
34 required by the State Review Committee shall be supplied by the Department of
35 Administration. The Department of Administration and the State Review Committee
36 shall report annually to the Joint Legislative Commission on Governmental Operations
37 on the administration of the State Employee Incentive Bonus Program."

38 SECTION 7. G.S. 143-345.25 reads as rewritten:

39 "~~§ 143-345.25. Effect-~~ Innovations deemed property of the State; effect of decisions
40 regarding bonuses.

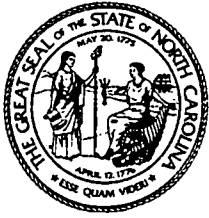
41 (a) All suggestions or innovations submitted by State employees pursuant to this
42 Article are the property of the State. State and all related intellectual property rights

1 shall be assigned to the State. By January 1, 2002, the Office of State Personnel shall
2 establish a policy regarding intellectual property rights that arise from the SEIBP.

3 (b) Decisions regarding the award of bonuses by the agency coordinator and the
4 State Review Committee are final and are not subject to review under the contested case
5 procedures of Chapter 150B of the General Statutes."

6 **SECTION 8.** This act becomes effective July 1, 2001, and applies to State
7 employee suggestions and innovations submitted on or after that date.

8



HOUSE BILL 1182: Nonlicensed Local School Employees Under SPA

BILL ANALYSIS

Committee: House State Personnel
Date: April 18, 2001
Version: 1st Edition

Introduced by: Representative Bell
Summary by: Theresa Matula
Committee Staff

SUMMARY: *House Bill 1182 provides nonlicensed employees of local school boards with coverage under the State Personnel Act.*

CURRENT LAW/BACKGROUND:

Article IX, Section 5 of the North Carolina Constitution defines the powers and duties of the State Board of Education to supervise and administer the free public school system and the educational funds provided for its support, and to make all needed rules and regulations in relation thereto, subject to laws enacted by the General Assembly.

G.S. 115C-12 specifies the powers and duties of the State Board of Education which includes certifying and regulating the grade and salary of teachers and other school employees/support personnel. Article 21 of Chapter 115C covers the hiring, salary, and vacation of other school employees.

Currently, employees of local school boards are not covered by the State Personnel Act in Chapter 126 of the General Statutes. Nonlicensed employees are often referred to as noncertified employees and are employees of the local education agency. Categories of noncertified positions include: child nutrition, curriculum support, maintenance, office support, and transportation. The personnel policies and benefits that cover these employees are currently set by the State Board of Education, but generally mirror those of State employees.

BILL ANALYSIS:

Section 1 amends G.S. 126-5(a) which is contained in Chapter 126 covering the State Personnel System. G.S. 126-5(a) outlines to whom the provisions of the Chapter shall apply. This section is amended by adding a new subdivision to include all employees of local boards of education whose positions do not require licensure by the Department of Public Instruction and who have been continuously employed by the local board of education for the immediate preceding 24 months.

Section 2 rewrites G.S. 125-5(c2) taking out the general reference to public school employees and specifying that the provisions of the Chapter shall not apply to employees whose positions require licensure by the Department of Public Instruction.

Section 3 amends G.S. 126-11 in Article 3 which covers Local Discretion as to Local Government Employees. G.S. 126-11 covers the establishment, approval and monitoring of local personnel systems. This amendment adds a new subsection stating that, "a local board of education may establish and maintain a personnel system for all employees of the local school board subject to its jurisdiction, which system and any substantial changes to the system shall be approved by the State Personnel Commission as substantially equivalent to the standards established under this Chapter for employees of local departments of social services, local health departments, area mental health programs, and local emergency management programs. If approved by the State Personnel Commission, the local school employees covered shall be exempt from all provisions of this Chapter except Article 6." Article 6 of Chapter 126 covers Equal Employment and Compensation Opportunity; Assisting in Obtaining State Employment.

HOUSE BILL 1182

Page 2

Section 4 makes a conforming amendment to G.S. 126-37(b1) to include the local board of education employees specified in the amendment to G.S. 126-5(a)(4) in Section 1 of the bill. G.S. 126-37 outlines the Personnel Commission's authority to review the Administrative Law Judge's recommended decision and make the final decision.

Section 5 amends G.S. 150B-23(a) regarding a contested case which shall be commenced by filing a petition with the Office of Administrative Hearings. This amendment allows the local board of education employees specified in G.S. 126-5(a)(4), or Section 1 of the bill, to bring a case to the Office of Administrative Hearings only as to personnel actions or issues listed in G.S. 126-34.1(a)(1). Those actions or issues listed in G.S. 126-34.1(a)(1) include dismissal, demotion, or suspension without pay based upon an alleged violation of G.S. 126-35 or just cause.

Section 6 states the act is effective when it becomes law.

H1182-SMSH-001

**2001 COMMITTEE REPORT
HOUSE OF REPRESENTATIVES**

The following report(s) from standing committee(s) is/are presented:

By Representative(s) **Hensley and Womble** (Chair/Chairs) for the Committee on **State Personnel**.

☐ Committee Substitute for

H.B. 1182 A BILL TO BE ENTITLED AN ACT PROVIDING NONLICENSED
EMPLOYEES OF LOCAL SCHOOL BOARDS WITH COVERAGE UNDER THE STATE
PERSONNEL ACT THAT IS SIMILAR TO THE COVERGE OF OTHER LOCAL
EMPLOYEES.

☒ With a favorable report.

☐ With a favorable report and recommendation that the bill be re-referred to the Committee on
Appropriations ☐ Finance ☐ .

☐ With a favorable report, as amended.

☐ With a favorable report, as amended, and recommendation that the bill be re-referred to the
Committee on Appropriations ☐ Finance ☐ .

☐ With a favorable report as to committee substitute bill (#), ☐ which changes the title,
unfavorable as to (original bill) (Committee Substitute Bill #), (and recommendation
that the committee substitute bill #) be re-referred to the Committee on .)

☐ With a favorable report as to House committee substitute bill (#), ☐ which changes
the title, unfavorable as to Senate committee substitute bill.

☐ With an unfavorable report.

☐ With recommendation that the House concur.

☐ With recommendation that the House do not concur.

☐ With recommendation that the House do not concur; request conferees.

☐ With recommendation that the House concur; committee believes bill to be material.

☐ With an unfavorable report, with a Minority Report attached.

☐ Without prejudice.

☐ With an indefinite postponement report.

☐ With an indefinite postponement report, with a Minority Report attached.

☐ With recommendation that it be adopted. (HOUSE RESOLUTION ONLY)

2/15/01

H.B.

1182

SESSION LAW

AN ACT PROVIDING NONLICENSED EMPLOYEES OF LOCAL SCHOOL BOARDS WITH COVERAGE UNDER THE STATE PERSONNEL ACT THAT IS SIMILAR TO THE COVERAGE OF OTHER LOCAL EMPLOYEES.

| | | | |
|-----------------------------------|-----------------------|------------------|-------------------|
| <i>Hoskell</i> | <i>Warner</i> | <i>B</i> | <i>Barnes</i> |
| <i>M. W. Lewis</i> | <i>Sadler</i> | <i>J. Latham</i> | <i>Russell</i> |
| <i>O'Brien</i> | <i>G. H. W. K. K.</i> | <i>Tolson</i> | <i>Sherrill</i> |
| <i>Bonner</i> | <i>W. H. K.</i> | <i>Earle</i> | <i>Hendley</i> |
| <i>Gibson</i> | <i>Whitney</i> | <i>Inches</i> | <i>Guthrie</i> |
| <i>Principal Clerk's Use Only</i> | | <i>Reed</i> | <i>M. Jeffers</i> |
| PASSED 1st READING | | | |

Principal Clerk's Use Only

PASSED 1st READING

APR 12 2001

AND REFERRED TO COMMITTEE

ON State personnel

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2001

H

1

HOUSE BILL 1182*

Short Title: Nonlicensed Local School Employees Under SPA. (Public)

Sponsors: Representatives Bell; Baddour, Barefoot, Bonner, Earle, Gibson, Hall, Hensley, Insko, Jeffus, Lucas, Luebke, Michaux, Miller, Oldham, Russell, Sherrill, Sutton, Tolson, Warner, Weiss, Womble, and Yongue.

Referred to: State Personnel.

April 12, 2001

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING NONLICENSED EMPLOYEES OF LOCAL SCHOOL
3 BOARDS WITH COVERAGE UNDER THE STATE PERSONNEL ACT THAT
4 IS SIMILAR TO THE COVERAGE OF OTHER LOCAL EMPLOYEES.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 126-5(a) is amended by adding a new subdivision to read:

7 "(4) To all employees of local boards of education whose positions do not
8 require licensure by the Department of Public Instruction and who
9 have been continuously employed by the local board of education for
10 the immediate preceding 24 months."

11 SECTION 2. G.S. 126-5(c2) reads as rewritten:

12 "(c2) The provisions of this Chapter shall not apply to:

- 13 (1) Public school superintendents, principals, teachers, and other public
14 school ~~employees~~ employees whose positions require licensure by the
15 Department of Public Instruction.
16 (2) Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular
17 Session, 1986), c. 1014, s. 41.
18 (3) Employees of community colleges whose salaries are fixed in
19 accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and
20 employees of the Community Colleges System Office whose salaries
21 are fixed by the State Board of Community Colleges in accordance
22 with the provisions of G.S. 115D-3."

23 SECTION 3. G.S. 126-11 is amended by adding a new subsection to read:

24 "(b2) A local board of education may establish and maintain a personnel system for
25 all employees of the local school board subject to its jurisdiction, which system and any
26 substantial changes to the system shall be approved by the State Personnel Commission

1 as substantially equivalent to the standards established under this Chapter for employees
2 of local departments of social services, local health departments, area mental health
3 programs, and local emergency management programs. If approved by the State
4 Personnel Commission, the local school employees covered shall be exempt from all
5 provisions of this Chapter except Article 6."

6 **SECTION 4.** G.S. 126-37(b1) reads as rewritten:

7 "(b1) In appeals involving local government employees subject to this Chapter
8 pursuant to ~~G.S. 126-5(a)(2)~~, G.S.126-5(a)(2) or G.S. 126-5(a)(4), except in appeals in
9 which discrimination prohibited by Article 6 of this Chapter is found or in any case
10 where a binding decision is required by applicable federal standards, the decision of the
11 State Personnel Commission shall be advisory to the local appointing authority. The
12 State Personnel Commission shall comply with all requirements of G.S. 150B-44 in
13 making an advisory decision. The local appointing authority shall, within 90 days of
14 receipt of the advisory decision of the State Personnel Commission, issue a written,
15 final decision either accepting, rejecting, or modifying the decision of the State
16 Personnel Commission. If the local appointing authority rejects or modifies the advisory
17 decision, the local appointing authority ~~must state the specific reasons why it did not~~
18 ~~adopt the advisory decision. shall comply with all the requirements of G.S. 150B-36 in~~
19 making its decision. A copy of the final decision shall be served on each party
20 personally or by certified mail, and on each party's attorney of record."

21 **SECTION 5.** G.S. 150B-23(a) reads as rewritten:

22 "(a) A contested case shall be commenced by filing a petition with the Office of
23 Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be
24 conducted by that Office. The party who files the petition shall serve a copy of the
25 petition on all other parties and, if the dispute concerns a license, the person who holds
26 the license. A party who files a petition shall file a certificate of service together with
27 the petition. A petition shall be signed by a party or a representative of the party and, if
28 filed by a party other than an agency, shall state facts tending to establish that the
29 agency named as the respondent has deprived the petitioner of property, has ordered the
30 petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the
31 petitioner's rights and that the agency:

- 32 (1) Exceeded its authority or jurisdiction;
- 33 (2) Acted erroneously;
- 34 (3) Failed to use proper procedure;
- 35 (4) Acted arbitrarily or capriciously; or
- 36 (5) Failed to act as required by law or rule.

37 The parties in a contested case shall be given an opportunity for a hearing without
38 undue delay. Any person aggrieved may commence a contested case hereunder.

39 A local government employee, applicant for employment, or former employee to
40 whom Chapter 126 of the General Statutes applies pursuant to G.S. 126-5(a)(2) may
41 commence a contested case under this Article in the same manner as any other
42 petitioner. A local employee whose case comes before the Office of Administrative
43 Hearings under G.S. 126-5(a)(4) may appeal only as to personnel actions or issues listed
44 in G.S. 126-34.1(a)(1). The case shall be conducted in the same manner as other

1 contested cases under this Article, except that the State Personnel Commission shall
2 enter final decisions only in cases in which it is found that the employee, applicant, or
3 former employee has been subjected to discrimination prohibited by Article 6 of
4 Chapter 126 of the General Statutes or in any case where a binding decision is required
5 by applicable federal standards. In these cases, the State Personnel Commission's
6 decision shall be binding on the local appointing authority. In all other cases, the final
7 decision shall be made by the applicable appointing authority."

8 **SECTION 6.** This act is effective when it becomes law.