

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: HB 1139

SHORT TITLE: State Personnel Grievance Procedure

SPONSOR(S): Representatives Sherill; Pulley, Thompson, Crawford, Culp, Hurley, Justus and Rayfield.

FISCAL IMPACT: Expenditures: Increase (X) Decrease ( )  
Revenues: Increase (X) Decrease ( )  
No Impact ( )  
No Estimate Available ( )

FUND AFFECTED: General Fund (X) Highway Fund (X)  
Local Govt. ( ) Other Funds ( )

**BILL SUMMARY:** Section 1 rewrites the catch line of Article 8 to read "Resolution of Employment Grievances"; section 2(a) (1) adds new language with G.S. 126-33 which provides necessary definitions, and section 2 (b) indicates how time will be computed; section 3 repeals G.S. 126-34; section 4 rewrites G.S. 126-34.1 to outline grievous issues under the article; section 5 rewrites G.S. 126-34.2 to address grievance procedures for local government employees subject to this article; section 6 amends Chapter 126 of article 8 to add six (6) new sections by which grievances are resolved: G.S. 126-34.3 provides a 30 day period for resolution of a grievance within an agency; 126-34.4 provides a 30 day period resolution of a grievance when the grievance is not resolved within an agency; 126-34.5 provides for a 45 day period within which grievances may be reviewed and resolved through the use of a qualified neutral party; 126-34.6 provides the conditions under which the Office of Administrative Hearings will handle contested cases; 126.34.7 prevents the State from initiating appeal but retains employee ability to pursue an appeal; G.S. 126-34.8 requires the Office of State Personnel to report annually on the grievance resolution procedure to the Joint Legislative Commission on Governmental Operations; and sections 7-24 rewrite certain sections of Article 8 to make conforming changes.

**EFFECTIVE DATE:** Sections 1 through 23 become effective on July 1, 1997 and apply to grievance filed on or after that date, with the exception of G.S. 126-34.7 in section 6 which becomes effective upon ratification and applies to any final agency decision of the Commission for which a petition for judicial review has not been filed. Sections 24 through 26 of this proposal are effective upon ratification.

**PRINCIPAL DEPARTMENT(S)/PROGRAM(S) AFFECTED:**  
Office of State Personnel, Office of Administrative Hearings, and Department of Justice

FISCAL IMPACT				
<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>	<u>FY</u>
96-97	97-98	98-99	99-00	00-01

**REVENUES**

GENERAL FUND	\$ 914				\$ 914
HIGHWAY FUND	86				86

**EXPENDITURES**

GENERAL FUND	\$1,554	\$51,856	\$51,890	\$51,925	\$51,963
HIGHWAY FUND	146	4,879	4,882	4,886	4,889

POSITIONS:

For training costs refer to OSP section below.

**ASSUMPTIONS AND METHODOLOGY:**

State Agencies and University System

As proposed in the legislation, G.S.126-34.5(a) provides for a qualified neutral person to meet with agencies and grievants when resolution to grievances specified in G.S. 126-34.1(d) is not accomplished within 30 days. Additionally, G.S. 126-34.5(e) specifies that costs associated with the services of the qualified neutral person is the responsibility of the agencies. A survey of State agencies and the University System indicates that there were approximately 70 occurrences of the six (6) grievances listed in G.S. 126-43.1(d) that were not resolved within a 30 day period in FY 93-94 and FY 94-95: 47 in State Agencies and 23 in the University System. For 26 of the 29 State agencies and 14 of the 19 facilities in the University System responding, the data suggest on the average 35 occurrences each fiscal year of the six (6) grievances unresolved within a 30 day period.

The estimated cost per qualified neutral person is \$100 per hour with an average time per grievance resolution of 16 hours. This estimate is derived from the charge imposed by the Administrative Office of the Courts, which reimburses mediators at the rate of \$100 per hour in court ordered cases that are subject to mediation. This provides an approximate annual cost of \$56,000.

Office of State Personnel

In the 1995 Session the General Assembly enacted legislation to change the State Personnel Act as it pertains to grounds for State employee appeals. The proposed grievance process would set aside the actions adopted in 1995, but in so doing, not change the responsibility or workload of the Office of State Personnel (OSP) to require a substantial increase in personnel and operating costs.

The critical impact on OSP is the response to G.S. 126-34.5 which provides for a qualified neutral person (qnp) to seek remedy between the agency and the grievant for actions G.S. 126-34.1(d) that are not resolved in a 30 day period. To comply with this provision OSP indicates additional operating cost of \$700 is required in FY 96-97 with an increase of approximately 5% per year. The additional funding would support copying expense for training materials, travel, telephone, and postage. Additionally, the qnp's will require training in State personnel policies, which has an estimated cost of \$100 per person. To offset this expense, a fee of \$100 is suggested per individual for those selected to serve as a qualified neutral person. In court ordered cases involving mediation, the Administrative Office of the Court charges an administrative fee of \$100

per case. The anticipated pool of qualified neutral persons should number approximately 10 individuals; therefore, producing \$1,000 in FY 96-97 to offset the cost of training. This cost may increase as the number of qualified neutral persons increases in subsequent years to respond to an increase in the number of grievances. It is also anticipated that in about three (3) years the qnp's would be required to refresh their knowledge of State personnel policies. Therefore, in FY 99-00 there is additional estimate for training at a cost of \$100 per qualified neutral person with a corresponding fee of \$100 per person.

#### Office of Administrative Hearings

Almost 2,000 cases were closed in the Office of Administrative Hearings (OAH) in Fiscal Year 1995. Only 225 petitions were filed which involved appeals of State personnel grievances.

Based upon a review of the draft bill, a significant reduction in the number of employee contested case petitions filed in the Office of Administrative Hearings is not anticipated. Although this bill could result in a reduction by 10% of personnel contested cases filed, this reduction would only reduce the total OAH case volume by 20 or 30 contested cases per year. Therefore, there would be a negligible fiscal impact if this bill is enacted.

#### Department of Justice

In regards to the new provisions in G.S. 126-34.3 and G.S. 126-34.4 that address a mediation type procedure for certain grievances, the agencies normally did not involve Department of Justice attorneys in their internal grievance procedure unless the grievance involved a claim of discrimination or the employee brought an attorney. Prohibiting attorneys for both parties for grievances other than dismissal or discrimination, appears to be revenue neutral to the department.

Per G.S. 126-34.7, agencies are prohibited from seeking an appeal of the final decision from the State Personnel Commission. This provision would eliminate some appellate work in the departments, but given the dispersed nature of the work, it would not support eliminating any legal personnel. However, if the grievant appealed, legal staff in the Department of Justice would continue to represent the agency on appeal. There is no additional cost to the department.

**SOURCES OF DATA: Office of State Personnel, Office of Administrative Hearings and Department of Justice.**

**FISCAL RESEARCH DIVISION 733-4910**

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**Signed Copy Located in the NCGA Principal Clerk's Offices**