

**STATE HUMAN RESOURCES COMMISSION MEETING
PURSUANT TO N.C.G.S. § 126-2(h)
VIA WEBEX DUE TO COVID-19 STATE OF EMERGENCY**

MEETING MINUTES – September 1, 2022

Members Present:

Members present on the Webex for the meeting were: Commissioner Dekhasta Becton Rozier, Chair, and Commissioner Andrea Allard, Commissioner Ross Beamon, Commissioner John Eller, Commissioner April Page, Commissioner Philip Strach and Commissioner Tracy Webb. Commissioner Courtney Cooper-Lewter and Commissioner Doug Boyette were unavailable.

Other Attendees

Other attendees present: Barbara Gibson, Director, Glenda Farrell, Chief Deputy, and Twanetta Lytle Alston, Deputy Director, Office of State Human Resources; General Counsel Blake Thomas, Assistant General Counsel Anna Perkinson, and Legislative Liaison Lockhart Taylor, Legal Division, Office of State Human Resources; Denise Mazza, State Human Resources Commission Administrator, Office of State Human Resources; LaQuita Alston, Nancy Astrike, Carol Battle, Suzanne Beasley, Andrea Clinkscales, Jill Lucas, Luisa Mahler, Randy Mizelle, and Paige Pavlik, of the Office of State Human Resources; Amy Summerlin, Department of Agriculture & Consumer Services; Judy Estevez, General Counsel, NC Auditor's Office; Dr. Donnell Adams, HR Director, NC Department of Administration; Angeline Hariston, HR Director, NC Office of Administrative Hearings; Carolyn Hunt, HR Director, NC Legislature; Renathe Cotton, HR Director, NC Department of Labor; Glenda Ellerbee, HR Director, Office of State Controller; Erica Zendt and Charlene Shabazz, NC Department of Public Safety; Harlan Frye, HR Director, NC Department of Revenue; Joe Marro, HR Director, NC Secretary of State Office; Andrea Porterfield, HR Director, NC Commerce; Josephine Stith, NC Office of the Treasurer; and Hollie Thornton, HR Director, NC Wildlife.

Opening

The Commission convened its open meeting pursuant to N.C.G.S. § 126-2(h) at 10:02 a.m. via Webex Teleconference.

The State Human Resources Commission (SHRC) last convened on July 14, 2022.

Pursuant to North Carolina General Statute Chapter 138A and the North Carolina Ethics Act, Chair Rozier asked all Commissioners if there were any conflicts of interest or potential conflicts of interest with respect to any matters coming before the Commission. No conflicts were presented.

There were no additions or corrections to the agenda for the September 1, 2022 meeting.

CONSENT AGENDA ITEMS

Twanetta Lytle Alston – Exceptions Granted under 25 NCAC 01A .0104 Variances

Deputy Director Twanetta Lytle Alston presented an overview of new COVID and Non-COVID exceptions granted by Director Gibson under 25 NCAC 01A .0104 since the July 14, 2022 State Human Resources Meeting.

Business Session Public Comment

Public Comment

There were no public comments.

Blake Thomas --Total Rewards/Salary Administration: Sign-On & Retention Bonus Policy

General Counsel Blake Thomas, on behalf of Total Rewards/Salary Administration Division Director Andrea Clinkscales, presented the Sign-On & Retention Bonus Policy as revised and further edited after query from Commissioner Andrea Allard at the July 14, 2022 State Human Resources Commission meeting. A new policy, it was first presented at the April 14, 2022 meeting and became a policy on June 1, 2022. This policy was then brought to the July 14, 2022 SHRC meeting with additional changes. At that meeting, Commissioner Allard brought to OSHR's attention that repayment as addressed on page 11 of the documentation on that agenda item at that meeting, was written for employees leaving State government and not employees going to another State agency. Clinkscales agreed that it was written from the perspective that the employees is terminating employment with the State and would need to be edited to address employees transferring to other State employment. The matter was then tabled for further consideration and was then calendared for September 1, 2022 pursuant to N.C.G.S. § 126-2(h).

At the September 1, 2022 meeting, Thomas informed the Commission of how valuable this policy is as a tool for agency HRs to use to address turnover, vacancy rate, and the Great Resignation issues and then reviewed the changes proposed at the July 14, 2022 State Human Resources Commission Meeting and those proposed after further consideration at today's meeting. They included:

- The policy approved on April 14 provides that a bonus over \$2,500 must be paid in at least two installments. Since the policy became effective, agencies and universities have asked how much the bonus may be front-weighted toward the first installment. To respond to these questions, OSHR proposes that the policy be amended to read, "No more than two-thirds of the total bonus may be paid in the first installment." See page 9 of the enclosed redline.
- The policy approved on April 14, like previous versions of the Sign-On Bonus Policy, provides that employees receiving a sign-on or retention bonus must repay the bonus, in part, if they terminate employment or transfer to another agency before the last installment is due to be received. (This period of time is referred to in the policy as the

“defined period of consecutive service.”) OSHR proposes three changes to the policy provisions on repayment.

- For one-installment bonuses, agencies would have the discretion to set the period of consecutive service between 3 months and 18 months. See page 10 of the enclosed redline.
- The policy would add an example of how the repayment formula works, and we would display the formula in a more easy-to-understand way. See page 11.
- We would add text to resolve a confusing relationship that has existed for several years between our Sign-On Bonus Policy and an Administrative Code rule. See pages 10-11.
- An Administrative Code rule from 1990 states, “No state agency may require, as a condition of employment, that an employee agree, in writing or otherwise, that a payment be made to the employing agency if a minimum specified period of employment is not met.” 25 NCAC 01C .0215(a)(3) (emphasis added; full rule enclosed). “Condition of employment” is defined as “A qualification or circumstance required for obtaining or keeping a job.” Black’s Law Dictionary (11th ed. 2019) (enclosed). Because bonuses under this policy are optional and not required for the employee to obtain or keep their job, it is OSHR’s view that bonuses under this policy are not a “condition of employment” and are not subject to the limit on repayment in rule 25 NCAC 01C .0215(a)(3). This explains why sign-on bonuses have been subject to the repayment requirement for the last several years.
- To resolve this issue, OSHR proposes language clarifying that employees can refuse sign-on and retention bonuses, that these are not conditions of employment, and that employees cannot be disciplined for failing to stay the entire “defined period of consecutive service.”
- New text addresses how payment/repayment of the bonus is achieved for circumstances other than termination of employment, such as transfer to another agency at the employee’s or employer’s discretion.
- New text addresses how repayment of the bonus is handled when employee’s termination or transfer to as a result of a medical issue.
- New text requires the approval request sent to OSBM for greater than 50 person bonuses to be sent simultaneously to OSHR as well.
- New text provides a definition of “special initiative” for Retention Bonus Situation 3.
- Agencies are now required to do quarterly reporting to OSHR about bonuses, as well as reporting on demand.

There being no further discussion or questions, the Chair called for a motion to recommend approval of the new Sign-On & Retention Bonus Policy as presented at the April 14, 2022

Minutes of the September 1, 2022 State Human Resources Commission Meeting

SHRC meeting and approve on June 1, 2022, with proposed revision from the July 14, 2022 and September 1, 2022 meetings as presented.

Motion: Commissioner Allard so moved.

Second: Commissioner Strach seconded the motion.

A roll call vote was held and all attending members of the Commission agreed to recommend the approval of the new Sign-On & Retention Bonus Policy as presented at the April 14, 2022 SHRC meeting and approve on June 1, 2022, with proposed revision from the July 14, 2022 and September 1, 2022 meetings as presented.

Motion carried.

Adjournment

There being no further discussion or questions, the Chair called for a motion to adjourn.

Motion: Commissioner Beamon so moved.

Second: Commissioner Page seconded the motion.

A roll call vote was held and all attending members of the Commission agreed to adjourn the September 1, 2022 SHRC meeting.

Motion carried.

The Commission adjourned at 10:19 a.m.

Executive Session

The State Human Resources Commission did not have an executive session at its September 1, 2022 meeting.

Minutes submitted by:

Denise H. Mazza,
State Human Resources Commission Administrator