



Office of State Human Resources

ROY COOPER
Governor

BARBARA GIBSON
Director, State Human Resources

MEMORANDUM

To: Chief Financial Officers
Human Resource Directors
Office of the Governor – Boards and Commissions Director

From: Barbara Gibson, Office of State Human Resources *Barbara Gibson*
Charles Perusse, Office of State Budget and Management *Charles Perusse*
Linda Combs, Office of the State Controller *Linda Combs*

Date: April 7, 2017

Re: State Board and Commission Members Classification and Compensation

The purpose of this memorandum is to make you aware of a recent Internal Revenue Service (IRS) audit finding that impacts the way members of the State's boards and commissions are classified and paid.

As of January 1, 2017, the IRS has issued an advisory opinion that board and commission members who receive a stipend or per diem are employees for employment tax purposes. Payments to these individuals are subject to income tax and social security/Medicare tax withholding. **These changes require all compensation paid to board and commission members to be reported on IRS Form W-2 instead of IRS Form 1099 for tax year 2017 and forward.**

The IRS opinion does not obligate the State to treat board and commission members as employees under the federal Fair Labor Standards Act ("FLSA"), the Affordable Care Act, or the North Carolina Wage and Hour Act ("Wage and Hour Act"); however, members would be covered as employees under internal counsel's interpretation of the Workers' Compensation Act.

For members of boards and commissions who receive compensation via the OSC Integrated HR-Payroll system (formerly known as BEACON), a "Hire and Pay Board Members Action Guide" has been prepared for your reference. This step-by-step action guide may be found at: <https://www.osc.nc.gov/hire-and-pay-board-members-action-guide>.

For members of boards and commissions who receive compensation via a source other than the OSC Integrated HR-Payroll system, you will need to consult with your own payroll processor to determine the appropriate steps necessary to comply with this requirement.

Because board and commission members will be treated as “temporary employees” for payroll purposes, the statutory requirement to utilize Temporary Solutions has been waived by the Office of State Human Resources. Also, the Office of State Budget and Management has updated Sections 5.3 and 5.5 of the State Budget Manual to conform with the IRS opinion and the provisions of this memo. If your board or commission member chooses to waive the “temporary employee” compensation, we would encourage your agency to obtain a written release to document the member’s decision.

If you have any questions or concerns related to the on-boarding process for your board and commission members to the OSC Integrated HR-Payroll system (I-9/E-verification), please contact Office of State Human Resources at 919-807-4874. For any questions regarding the update to the State Budget Manual policy on compensating board and commission members, please contact your agency’s OSBM budget analyst at 919-807-4700. Finally, for any questions related to changes within the OSC Integrated HR-Payroll system, please contact BEST Shared Services at 919-707-0707. Thank you for your prompt attention to this change and your efforts to ensure that the State of North Carolina is complying with the requirements of the Internal Revenue Code.