

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1546
Second Edition Engrossed 5/15/07
House Committee Substitute Favorable 7/25/07

Short Title: Clarify Public Access to Personnel Records.

(Public)

Sponsors:

Referred to:

March 28, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO CLARIFY THE PUBLIC'S ACCESS TO PUBLIC EMPLOYEE
3 PERSONNEL RECORDS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 115C-320 reads as rewritten:

6 "§ 115C-320. **Certain records open to inspection.**

7 Each local board of education shall maintain a record of each of its employees,
8 showing the following information with respect to each employee: name, age, date of
9 original employment or appointment, the terms of any contract by which the employee
10 is employed whether written or oral, past and current, to the extent that the board has the
11 written contract or a record of the oral contract in its possession, current position, title,
12 current salary, date and amount of most recent increase or decrease in salary, date of
13 most recent promotion, demotion, transfer, suspension, separation, or other change in
14 position classification, and the office or station to which the employee is currently
15 assigned. For the purposes of this section, the term "salary" includes pay, benefits,
16 incentives, bonuses, and deferred and all other forms of compensation paid by the
17 employing entity. Subject only to rules and regulations for the safekeeping of records
18 adopted by the local board of education, every person having custody of the records
19 shall permit them to be inspected and examined and copies made by any person during
20 regular business hours. The name of a participant in the Address Confidentiality
21 Program established pursuant to Chapter 15C of the General Statutes shall not be open
22 to inspection and shall be redacted from any record released pursuant to this section.
23 Any person who is denied access to any record for the purpose of inspecting, examining
24 or copying the record shall have a right to compel compliance with the provisions of
25 this section by application to a court of competent jurisdiction for a writ of mandamus
26 or other appropriate relief."

27 SECTION 2. G.S. 115D-28 reads as rewritten:

28 "§ 115D-28. **Certain records open to inspection.**

1 Each board of trustees shall maintain a record of each of its employees, showing the
2 following information with respect to each employee: name, age, date of original
3 employment or appointment, the terms of any contract by which the employee is
4 employed whether written or oral, past and current, to the extent that the board has the
5 written contract or a record of the oral contract in its possession, current position, title,
6 current salary, date and amount of most recent increase or decrease in salary, date of
7 most recent promotion, demotion, transfer, suspension, separation, or other change in
8 position classification, and the office or station to which the employee is currently
9 assigned. For the purposes of this section, the term "salary" includes pay, benefits,
10 incentives, bonuses, and deferred and all other forms of compensation paid by the
11 employing entity. Subject only to rules and regulations for the safekeeping of records
12 adopted by the board of trustees, every person having custody of the records shall
13 permit them to be inspected and examined and copies made by any person during
14 regular business hours. Any person who is denied access to any record for the purpose
15 of inspecting, examining or copying the record shall have a right to compel compliance
16 with the provisions of this section by application to a court of competent jurisdiction for
17 a writ of mandamus or other appropriate relief."

18 **SECTION 3.** G.S. 122C-158(b) reads as rewritten:

19 "(b) The following information with respect to each employee is a matter of public
20 record: name; age; date of original employment or appointment to the area authority; the
21 terms of any contract by which the employee is employed whether written or oral, past
22 and current, to the extent that the agency has the written contract or a record of the oral
23 contract in its possession; current position title; current salary; date and amount of most
24 recent increase or decrease in salary; date of the most recent promotion, demotion,
25 transfer, suspension, separation, or other change in position classification; and the office
26 to which the employee is currently assigned. For the purposes of this subsection, the
27 term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other
28 forms of compensation paid by the employing entity. The area authority shall determine
29 in what form and by whom this information will be maintained. Any person may have
30 access to this information for the purpose of inspection, examination, and copying
31 during regular business hours, subject only to rules for the safekeeping of public records
32 as the area authority may have adopted. Any person denied access to this information
33 may apply to the appropriate division of the General Court of Justice for an order
34 compelling disclosure, and the court shall have jurisdiction to issue these orders."

35 **SECTION 4.** G.S. 126-23 reads as rewritten:

36 "**§ 126-23. Certain records to be kept by State agencies open to inspection.**

37 Each department, agency, institution, commission and bureau of the State shall
38 maintain a record of each of its employees, showing the following information with
39 respect to each such employee: name, age, date of original employment or appointment
40 to the State service, the terms of any contract by which the employee is employed
41 whether written or oral, past and current, to the extent that the agency has the written
42 contract or a record of the oral contract in its possession, current position, title, current
43 salary, date and amount of most recent increase or decrease in salary, date of most
44 recent promotion, demotion, transfer, suspension, separation, or other change in position

1 classification, and the office or station to which the employee is currently assigned. For
2 the purposes of this section, the term "salary" includes pay, benefits, incentives,
3 bonuses, and deferred and all other forms of compensation paid by the employing
4 entity. Subject only to rules and regulations for the safekeeping of the records, adopted
5 by the State Personnel Commission, every person having custody of such records shall
6 permit them to be inspected and examined and copies thereof made by any person
7 during regular business hours. Any person who is denied access to any such record for
8 the purpose of inspecting, examining or copying the same shall have a right to compel
9 compliance with the provisions of this section by application to a court of competent
10 jurisdiction for a writ of mandamus or other appropriate relief."

11 **SECTION 4.5.** G.S. 126-22 reads as rewritten:

12 **"§ 126-22. Personnel files not subject to inspection under § 132-6.**

13 (a) Except as provided in G.S. 126-23 and G.S. 126-24, Personnel-personnel files
14 of State employees, former State employees, or applicants for State employment
15 employees shall not be subject to inspection and examination as authorized by
16 G.S. 132-6.

17 (b) For purposes of this Article a personnel file consists of any information
18 gathered by the department, division, bureau, commission, council, or other agency
19 subject to Article 7 of this Chapter which employs an individual, previously employed
20 an individual, or considered an individual's application for employment, or by the office
21 of State Personnel, and which information relates to the individual's application,
22 selection or nonselection, promotions, demotions, transfers, leave, salary, suspension,
23 performance evaluation forms, disciplinary actions, and termination of employment
24 wherever located and in whatever form. the following definitions apply:

25 (1) "Employee" means any current State employee, former State
26 employee, or applicant for State employment.

27 (2) "Employer" means any State department, university, division, bureau,
28 commission, council, or other agency subject to Article 7 of this
29 Chapter.

30 (3) "Personnel file" means any employment-related or personal
31 information gathered by an employer, the Retirement Systems
32 Division of the Department of State Treasurer, or by the Office of
33 State Personnel. Employment-related information contained in a
34 personnel file includes information related to an individual's
35 application, selection, promotion, demotion, transfer, leave, salary,
36 contract for employment, benefits, suspension, performance
37 evaluation, disciplinary actions, and termination. Personal information
38 contained in a personnel file includes an individual's home address,
39 social security number, medical history, personal financial data,
40 marital status, dependents, and beneficiaries.

41 (4) "Record" means the personnel information that each employer is
42 required to maintain in accordance with G.S. 126-23.

43 (c) Personnel files of former State employees who have been separated from
44 State employment for 10 or more years may be open to inspection and examination

1 except for papers and documents relating to demotions and to disciplinary actions
2 resulting in the dismissal of the ~~employee~~. employee and personnel files maintained by
3 the Retirement Systems Division of the Department of State Treasurer."

4 **SECTION 5.** G.S. 130A-45.9(b) reads as rewritten:

5 "(b) The following information with respect to each employee of a public health
6 authority is a matter of public record: name; age; date of original employment or
7 appointment; beginning and ending dates, position title, position descriptions, and total
8 compensation of current and former positions; the terms of any contract by which the
9 employee is employed whether written or oral, past and current, to the extent that the
10 authority has the written contract or a record of the oral contract in its possession, and
11 date of the most recent promotion, demotion, transfer, suspension, separation, or other
12 change in position classification. In addition, the following information with respect to
13 each licensed medical provider employed by or having privileges to practice in a public
14 health facility shall be a matter of public record: educational history and qualifications,
15 date and jurisdiction or original and current licensure; and information relating to
16 medical board certifications or other qualifications of medical specialists. For the
17 purposes of this subsection, the term "total compensation" includes pay, benefits,
18 incentives, bonuses, and deferred and all other forms of compensation paid by the
19 employing entity."

20 **SECTION 6.** G.S. 153A-98(b) reads as rewritten:

21 "(b) The following information with respect to each county employee is a matter
22 of public record: name; age; date of original employment or appointment to the county
23 service; the terms of any contract by which the employee is employed whether written
24 or oral, past and current, to the extent that the county has the written contract or a record
25 of the oral contract in its possession; current position title; current salary; date and
26 amount of the most recent increase or decrease in salary; date of the most recent
27 promotion, demotion, transfer, suspension, separation or other change in position
28 classification; and the office to which the employee is currently assigned. For the
29 purposes of this subsection, the term "salary" includes pay, benefits, incentives,
30 bonuses, and deferred and all other forms of compensation paid by the employing
31 entity. The board of county commissioners shall determine in what form and by whom
32 this information will be maintained. Any person may have access to this information for
33 the purpose of inspection, examination, and copying, during regular business hours,
34 subject only to such rules and regulations for the safekeeping of public records as the
35 board of commissioners may have adopted. Any person denied access to this
36 information may apply to the appropriate division of the General Court of Justice for an
37 order compelling disclosure, and the court shall have jurisdiction to issue such orders."

38 **SECTION 7.** G.S. 160A-168(b) reads as rewritten:

39 "(b) The following information with respect to each city employee is a matter of
40 public record: name; age; date of original employment or appointment to the service;
41 the terms of any contract by which the employee is employed whether written or oral,
42 past and current, to the extent that the city has the written contract or a record of the oral
43 contract in its possession; current position title; current salary; date and amount of the
44 most recent increase or decrease in salary; date of the most recent promotion, demotion,

1 transfer, suspension, separation, or other change in position classification; and the office
2 to which the employee is currently assigned. For the purposes of this subsection, the
3 term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other
4 forms of compensation paid by the employing entity. The city council shall determine in
5 what form and by whom this information will be maintained. Any person may have
6 access to this information for the purpose of inspection, examination, and copying,
7 during regular business hours, subject only to such rules and regulations for the
8 safekeeping of public records as the city council may have adopted. Any person denied
9 access to this information may apply to the appropriate division of the General Court of
10 Justice for an order compelling disclosure, and the court shall have jurisdiction to issue
11 such orders."

12 **SECTION 8.** G.S. 162A-6.1(b) reads as rewritten:

13 "(b) The following information with respect to each authority employee is a
14 matter of public record: name; age; date of original employment or appointment to the
15 service; the terms of any contract by which the employee is employed whether written
16 or oral, past and current, to the extent that the authority has the written contract or a
17 record of the oral contract in its possession; current position title; current salary; date
18 and amount of the most recent increase or decrease in salary; date of the most recent
19 promotion, demotion, transfer, suspension, separation, or other change in position
20 classification; and the office to which the employee is currently assigned. For the
21 purposes of this subsection, the term "salary" includes pay, benefits, incentives,
22 bonuses, and deferred and all other forms of compensation paid by the employing
23 entity. The authority shall determine in what form and by whom this information will be
24 maintained. Any person may have access to this information for the purpose of
25 inspection, examination, and copying, during regular business hours, subject only to
26 such rules and regulations for the safekeeping of public records as the authority may
27 have adopted. Any person denied access to this information may apply to the
28 appropriate division of the General Court of Justice for an order compelling disclosure,
29 and the court shall have jurisdiction to issue such orders."

30 **SECTION 9.** This act is effective when it becomes law.