

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 78

State Government, Local Government, and Personnel Committee Substitute Adopted
3/24/97

House Committee Substitute Favorable 6/17/98

Short Title: State Employee Sexual Harassment.

(Public)

Sponsors:

Referred to:

February 10, 1997

A BILL TO BE ENTITLED

AN ACT AMENDING THE STATE PERSONNEL ACT TO ESTABLISH
JURISDICTION FOR THE HEARING OF STATE EMPLOYEE SEXUAL
HARASSMENT GRIEVANCES BEFORE THE OFFICE OF ADMINISTRATIVE
HEARINGS AND THE STATE PERSONNEL COMMISSION.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-34 reads as rewritten:

"§ 126-34. Grievance appeal for career State employees.

Any career State employee having a grievance arising out of or due to ~~his~~the
employee's employment and who does not allege (i) discrimination because of ~~his~~the
employee's age, sex, race, color, national origin, religion, creed, handicapping condition
as defined by G.S. 168A-3, or political affiliation or (ii) sexual harassment, shall first
discuss ~~his~~the problem or grievance with ~~his~~the employee's supervisor and follow the
grievance procedure established by ~~his~~the employee's department or agency."

Section 2. G.S. 126-34.1(a) is amended by adding a new subsection to read:

"(10) Sexual harassment, including quid pro quo harassment or harassment
due to a hostile work environment."

1 Section 3. G.S. 126-36 reads as rewritten:

2 **"§ 126-36. Appeal of unlawful State employment practice.**

3 Any State employee or former State employee who has reason to believe ~~that~~
4 ~~employment, that:~~

5 (1) Employment, promotion, training, or transfer was denied ~~him~~ the
6 employee or that demotion, layoff or termination of employment was
7 forced upon ~~him~~ the employee in retaliation for opposition to alleged
8 discrimination or because of ~~his~~ the employee's age, sex, race, color,
9 national origin, religion, creed, political affiliation, or ~~handicapped~~
10 handicapping condition as defined by G.S. 168A-3 except where
11 specific age, sex or physical requirements constitute a bona fide
12 occupational qualification necessary to proper and efficient
13 administration, shall have the right to appeal directly to the Office of
14 Administrative Hearings and State Personnel Commission.

15 (2) The employee has been subjected to sexual harassment, whether quid
16 pro quo harassment or harassment due to a hostile work environment, or
17 to retaliation for opposition to sexual harassment, shall have the right to
18 appeal directly to the Office of Administrative Hearings and State
19 Personnel Commission."

20 Section 4. G.S. 126-37(a) reads as rewritten:

21 "(a) Appeals involving a disciplinary action, alleged discrimination, alleged sexual
22 harassment, and any other contested case arising under this Chapter shall be conducted in
23 the Office of Administrative Hearings as provided in Article 3 of Chapter 150B; provided
24 that no grievance may be appealed unless the employee has complied with G.S. 126-34.
25 The State Personnel Commission shall make a final decision in these cases as provided in
26 G.S. 150B-36, except as provided in subsection (b1) of this section. The State Personnel
27 Commission is hereby authorized to reinstate any employee to the position from which ~~he~~
28 the employee has been removed, to order the employment, promotion, transfer, or salary
29 adjustment of any individual to whom it has been wrongfully denied or to direct other
30 suitable action to correct the abuse which may include the requirement of payment for
31 any loss of salary which has resulted from the improperly discriminatory action of the
32 appointing authority."

33 Section 5. This act becomes effective July 15, 1998, and applies to:

- 34 (1) All cases pending on July 15, 1998,
35 a. In the Office of Administrative Hearings or before the State
36 Personnel Commission; or
37 b. On appeal from a decision of the State Personnel Commission;
38 and
39 (2) All State employee grievances arising on or after July 15, 1998.