

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1546
Second Edition Engrossed 5/15/07

Short Title: Clarify Public Access To Personnel Records. (Public)

Sponsors: Senators Hoyle; and Dalton.

Referred to: Judiciary I (Civil).

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 or paid with the approval of the employing entity. Subject only to
18 rules and regulations for the safekeeping of records adopted by the local board of
19 education, every person having custody of the records shall permit them to be inspected
20 and examined and copies made by any person during regular business hours. The name
21 of a participant in the Address Confidentiality Program established pursuant to Chapter
22 15C of the General Statutes shall not be open to inspection and shall be redacted from
23 any record released pursuant to this section. Any person who is denied access to any
24 record for the purpose of inspecting, examining or copying the record shall have a right
25 to compel compliance with the provisions of this section by application to a court of
26 competent jurisdiction for a writ of mandamus 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 or paid with the approval of the employing entity. Subject only to
12 rules and regulations for the safekeeping of records adopted by the board of trustees,
13 every person having custody of the records shall permit them to be inspected and
14 examined and copies made by any person during regular business hours. Any person
15 who is denied access to any record for the purpose of inspecting, examining or copying
16 the record shall have a right to compel compliance with the provisions of this section by
17 application to a court of competent jurisdiction for a writ of mandamus or other
18 appropriate relief."

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

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

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

38 **"§ 126-23. Certain records to be kept by State agencies open to inspection.**

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

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

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

15 "**§ 126-22. Personnel files not subject to inspection under § 132-6.**

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

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

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

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

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

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

1 (c) Personnel files of former State employees who have been separated from
2 State employment for 10 or more years may be open to inspection and examination
3 except for papers and documents relating to demotions and to disciplinary actions
4 resulting in the dismissal of the ~~employee~~. employee, and personnel files maintained by
5 the Retirement System Division of the Department of State Treasurer."

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

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

22 **SECTION 6.** G.S. 131E-257.2(b) reads as rewritten:

23 "(b) The following information with respect to each public hospital employee is a
24 matter of public record:

- 25 (1) Name.
- 26 (2) Age.
- 27 (3) Date of original ~~employment~~. employment and the terms of any
28 contract by which the employee is employed whether written or oral,
29 past and current, to the extent that the hospital has the written contract
30 or a record of the oral contract in its possession.
- 31 (4) Current position title, current salary, and the date and amount of the
32 most recent increase or decrease in salary. For the purposes of this
33 subdivision, the term "salary" includes pay, benefits, incentives,
34 bonuses, and deferred and all other forms of compensation paid by the
35 employing entity or paid with the approval of the employing entity.
- 36 (5) Date of the most recent promotion, demotion, transfer, suspension,
37 separation or other change in position classification.
- 38 (6) The office to which the employee is currently assigned.

39 In addition, the following information with respect to each licensed medical provider
40 employed by or having privileges to practice in a public hospital shall be a matter of
41 public record: educational history and qualifications, date and jurisdiction or original
42 and current licensure; and information relating to medical board certifications or other
43 qualifications of medical specialists.

1 The governing board of a public hospital shall determine in what form and by whom
2 this information will be maintained. Any person may have access to this information for
3 the purpose of inspection, examination, and copying, during regular business hours,
4 subject only to such rules and regulations for the safekeeping of public records as the
5 governing board of the public hospital may have adopted. Any person denied access to
6 this information may apply to the appropriate division of the General Court of Justice
7 for an order compelling disclosure, and the court shall have jurisdiction to issue such
8 orders."

9 **SECTION 7.** G.S. 153A-98(b) reads as rewritten:

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

28 **SECTION 8.** G.S. 160A-168(b) reads as rewritten:

29 "(b) The following information with respect to each city employee is a matter of
30 public record: name; age; date of original employment or appointment to the service;
31 the terms of any contract by which the employee is employed whether written or oral,
32 past and current, to the extent that the city has the written contract or a record of the oral
33 contract in its possession; current position title; current salary; date and amount of the
34 most recent increase or decrease in salary; date of the most recent promotion, demotion,
35 transfer, suspension, separation, or other change in position classification; and the office
36 to which the employee is currently assigned. For the purposes of this subsection, the
37 term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other
38 forms of compensation paid by the employing entity or paid with the approval of the
39 employing entity. The city council shall determine in what form and by whom this
40 information will be maintained. Any person may have access to this information for the
41 purpose of inspection, examination, and copying, during regular business hours, subject
42 only to such rules and regulations for the safekeeping of public records as the city
43 council may have adopted. Any person denied access to this information may apply to

1 the appropriate division of the General Court of Justice for an order compelling
2 disclosure, and the court shall have jurisdiction to issue such orders."

3 **SECTION 9.** G.S. 162A-6.1(b) reads as rewritten:

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

21 **SECTION 10.** This act is effective when it becomes law.