

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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HOUSE BILL 837\*

Short Title: Government Transparency Act. (Public)

Sponsors: Representatives Collins, Blust, and Wilkins (Primary Sponsors).  
*For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.*

Referred to: State Personnel, if favorable, Regulatory Reform.

April 11, 2013

1 A BILL TO BE ENTITLED  
2 AN ACT TO STRENGTHEN CONFIDENCE IN GOVERNMENT BY INCREASING  
3 ACCESSIBILITY TO PUBLIC PERSONNEL HIRING, FIRING, PERFORMANCE  
4 RECORDS, AND OTHER GOVERNMENTAL RECORDS AND MEETINGS.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** G.S. 126-23(a) reads as rewritten:

7 "(a) Each department, agency, institution, commission and bureau of the State shall  
8 maintain a record of each of its employees, showing the following information with respect to  
9 each such employee:

- 10 (1) Name.  
11 (2) Age.  
12 (3) Date of original employment or appointment to State service.  
13 (4) The terms of any contract by which the employee is employed whether  
14 written or oral, past and current, to the extent that the agency has the written  
15 contract or a record of the oral contract in its possession.  
16 (5) Current position.  
17 (6) Title.  
18 (7) Current salary.  
19 (8) Date and amount of each increase or decrease in salary with that department,  
20 agency, institution, commission, or bureau.  
21 (9) Date and type of each promotion, demotion, transfer, suspension, separation,  
22 or other change in position classification with that department, agency,  
23 institution, commission, or bureau.  
24 ~~(10) Date and general description of the reasons for each promotion with that~~  
25 ~~department, agency, institution, commission, or bureau.~~  
26 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~  
27 ~~reasons taken by the department, agency, institution, commission, or bureau.~~  
28 (10) A general description of the reasons for each promotion, demotion, transfer,  
29 suspension, separation, or other change in position classification with that  
30 department, agency, institution, commission, or bureau. If the disciplinary  
31 action was a dismissal, a copy of the written notice of the final decision of  
32 the head of the department setting forth the specific acts or omissions that  
33 are the basis of the dismissal.  
34 (11) The performance of the employee, to the extent that the department, agency,  
35 institution, commission, or bureau has performance records in its possession.



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1 (12) The office or station to which the employee is currently assigned."

2 **SECTION 2.** G.S. 115C-320(a) reads as rewritten:

3 "(a) Each local board of education shall maintain a record of each of its employees,  
4 showing the following information with respect to each employee:

5 (1) Name.

6 (2) Age.

7 (3) Date of original employment or appointment.

8 (4) The terms of any contract by which the employee is employed whether  
9 written or oral, past and current, to the extent that the board has the written  
10 contract or a record of the oral contract in its possession.

11 (5) Current position.

12 (6) Title.

13 (7) Current salary.

14 (8) Date and amount of each increase or decrease in salary with that local board  
15 of education.

16 (9) Date and type of each promotion, demotion, transfer, suspension, separation,  
17 or other change in position classification with that local board of education.

18 ~~(10) Date and general description of the reasons for each promotion with that  
19 local board of education.~~

20 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary  
21 reasons taken by the local board of education.~~

22 (10) A general description of the reasons for each promotion, demotion, transfer,  
23 suspension, separation, or other change in position classification with that  
24 local board of education. If the disciplinary action was a dismissal, a copy of  
25 the written notice of the final decision of the local board of education setting  
26 forth the specific acts or omissions that are the basis of the dismissal.

27 (11) The performance of the employee, to the extent that the local board of  
28 education has performance records in its possession.

29 (12) The office or station to which the employee is currently assigned."

30 **SECTION 3.** G.S. 115D-28(a) reads as rewritten:

31 "(a) Each board of trustees shall maintain a record of each of its employees, showing the  
32 following information with respect to each employee:

33 (1) Name.

34 (2) Age.

35 (3) Date of original employment or appointment.

36 (4) The terms of any contract by which the employee is employed whether  
37 written or oral, past and current, to the extent that the board has the written  
38 contract or a record of the oral contract in its possession.

39 (5) Current position.

40 (6) Title.

41 (7) Current salary.

42 (8) Date and amount of each increase or decrease in salary with that community  
43 college.

44 (9) Date and type of each promotion, demotion, transfer, suspension,  
45 separation, or other change in position classification with that community  
46 college.

47 ~~(10) Date and general description of the reasons for each promotion with that  
48 community college.~~

49 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary  
50 reasons taken by the community college.~~

1           (10) A general description of the reasons for each promotion, demotion, transfer,  
2           suspension, separation, or other change in position classification with that  
3           community college. If the disciplinary action was a dismissal, a copy of the  
4           written notice of the final decision of the board of trustees setting forth the  
5           specific acts or omissions that are the basis of the dismissal.

6           (11) The performance of the employee, to the extent that the community college  
7           has performance records in its possession.

8           (12) The office or station to which the employee is currently assigned."

9           **SECTION 4.** G.S. 122C-158(b) reads as rewritten:

10          (b) The following information with respect to each employee is a matter of public  
11          record:

12           (1) Name.

13           (2) Age.

14           (3) Date of original employment or appointment to the area authority.

15           (4) The terms of any contract by which the employee is employed whether  
16           written or oral, past and current, to the extent that the agency has the written  
17           contract or a record of the oral contract in its possession.

18           (5) Current position.

19           (6) Title.

20           (7) Current salary.

21           (8) Date and amount of each increase or decrease in salary with that area  
22           authority.

23           (9) Date and type of each promotion, demotion, transfer, suspension, separation,  
24           or other change in position classification with that area authority.

25           ~~(10) Date and general description of the reasons for each promotion with that area~~  
26           ~~authority.~~

27           ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~  
28           ~~reasons taken by the area authority.~~

29           (10) A general description of the reasons for each promotion, demotion, transfer,  
30           suspension, separation, or other change in position classification with that  
31           area authority. If the disciplinary action was a dismissal, a copy of the  
32           written notice of the final decision of the area authority setting forth the  
33           specific acts or omissions that are the basis of the dismissal.

34           (11) The performance of the employee, to the extent that the area authority has  
35           performance records in its possession.

36           (12) The office to which the employee is currently assigned."

37           **SECTION 5.** G.S. 153A-98(b) reads as rewritten:

38          (b) The following information with respect to each county employee is a matter of  
39          public record:

40           (1) Name.

41           (2) Age.

42           (3) Date of original employment or appointment to the county service.

43           (4) The terms of any contract by which the employee is employed whether  
44           written or oral, past and current, to the extent that the county has the written  
45           contract or a record of the oral contract in its possession.

46           (5) Current position.

47           (6) Title.

48           (7) Current salary.

49           (8) Date and amount of each increase or decrease in salary with that county.

50           (9) Date and type of each promotion, demotion, transfer, suspension, separation  
51           or other change in position classification with that county.

- 1           ~~(10) Date and general description of the reasons for each promotion with that~~
- 2           ~~county.~~
- 3           ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~
- 4           ~~reasons taken by the county.~~
- 5           (10) A general description of the reasons for each promotion, demotion, transfer,
- 6           suspension, separation, or other change in position classification with that
- 7           county. If the disciplinary action was a dismissal, a copy of the written
- 8           notice of the final decision of the county setting forth the specific acts or
- 9           omissions that are the basis of the dismissal.
- 10          (11) The performance of the employee, to the extent that the county has
- 11          performance records in its possession.
- 12          (12) The office to which the employee is currently assigned."

**SECTION 6.** G.S. 160A-168(b) reads as rewritten:

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

- 16           (1) Name.
- 17           (2) Age.
- 18           (3) Date of original employment or appointment to the service.
- 19           (4) The terms of any contract by which the employee is employed whether
- 20           written or oral, past and current, to the extent that the city has the written
- 21           contract or a record of the oral contract in its possession.
- 22           (5) Current position.
- 23           (6) Title.
- 24           (7) Current salary.
- 25           (8) Date and amount of each increase or decrease in salary with that
- 26           municipality.
- 27           (9) Date and type of each promotion, demotion, transfer, suspension,
- 28           separation, or other change in position classification with that municipality.
- 29           ~~(10) Date and general description of the reasons for each promotion with that~~
- 30           ~~municipality.~~
- 31           ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~
- 32           ~~reasons taken by the municipality.~~
- 33           (10) A general description of the reasons for each promotion, demotion, transfer,
- 34           suspension, separation, or other change in position classification with that
- 35           area municipality. If the disciplinary action was a dismissal, a copy of the
- 36           written notice of the final decision of the municipality setting forth the
- 37           specific acts or omissions that are the basis of the dismissal.
- 38           (11) The performance of the employee, to the extent that the municipality has
- 39           performance records in its possession.
- 40           (12) The office to which the employee is currently assigned."

**SECTION 7.** G.S. 162A-6.1(b) reads as rewritten:

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

- 44           (1) Name.
- 45           (2) Age.
- 46           (3) Date of original employment or appointment to the service.
- 47           (4) The terms of any contract by which the employee is employed whether
- 48           written or oral, past and current, to the extent that the authority has the
- 49           written contract or a record of the oral contract in its possession.
- 50           (5) Current position.
- 51           (6) Title.

- 1 (7) Current salary.  
2 (8) Date and amount of each increase or decrease in salary with that authority.  
3 (9) Date and type of each promotion, demotion, transfer, suspension, separation,  
4 or other change in position classification with that authority.  
5 ~~(10) Date and general description of the reasons for each promotion with that~~  
6 ~~authority.~~  
7 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~  
8 ~~reasons taken by the authority.~~  
9 (10) A general description of the reasons for each promotion, demotion, transfer,  
10 suspension, separation, or other change in position classification with that  
11 authority. If the disciplinary action was a dismissal, a copy of the written  
12 notice of the final decision of the authority setting forth the specific acts or  
13 omissions that are the basis of the dismissal.  
14 (11) The performance of the employee, to the extent that the authority has  
15 performance records in its possession.  
16 (12) The office to which the employee is currently assigned."

17 **SECTION 8.** G.S. 143-318.16B reads as rewritten:

18 **"§ 143-318.16B. Assessments and awards of attorneys' fees.**

19 (a) In any action brought pursuant to this Article in which a party successfully enjoins a  
20 violation of this Article, or succeeds in having a court of competent jurisdiction declare a party  
21 in violation of this Article, or succeeds in having a court declare an action taken in violation of  
22 this Article as null and void, the court shall allow a party who substantially prevails in seeking  
23 compliance by a public body with the requirements of this Article to recover its reasonable  
24 attorneys' fees if attributable to that noncompliance. The court may not assess attorneys' fees  
25 against the governmental body or governmental unit if the court finds that the governmental  
26 body or governmental unit acted in reasonable reliance on any of the following:

- 27 (1) A judgment or an order of a court applicable to the governmental unit or  
28 governmental body.  
29 (2) The published opinion of an appellate court, an order of the North Carolina  
30 Business Court, or a final order of the Trial Division of the General Court of  
31 Justice.  
32 (3) A written opinion, decision, or letter of the Attorney General.

33 The court may order that all or any portion of any fee assessed be paid personally by any  
34 individual member or members of the public body found by the court to have knowingly or  
35 intentionally committed the violation; provided that no order against any individual member  
36 shall issue in any case where the public body or that individual member seeks the advice of an  
37 attorney and such advice is followed.

38 (b) Notwithstanding subsection (a) of this section, the court may not assess attorneys'  
39 fees against a public hospital created under Article 2 of Chapter 131E of the General Statutes if  
40 the court finds that the action was brought by, or on behalf of, a competing health care provider  
41 for obtaining information to be used to gain a competitive advantage.

42 ~~When an action is brought pursuant to G.S. 143-318.16 or G.S. 143-318.16A, the court may~~  
43 ~~make written findings specifying the prevailing party or parties, and may award the prevailing~~  
44 ~~party or parties a reasonable attorney's fee, to be taxed against the losing party or parties as part~~  
45 ~~of the costs. The court may order that all or any portion of any fee as assessed be paid~~  
46 ~~personally by any individual member or members of the public body found by the court to have~~  
47 ~~knowingly or intentionally committed the violation; provided, that no order against any~~  
48 ~~individual member shall issue in any case where the public body or that individual member~~  
49 ~~seeks the advice of an attorney, and such advice is followed."~~

50 **SECTION 9.** This act becomes effective December 1, 2013.