

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 835

Short Title: State Contract Employee Protection. (Public)

Sponsors: Representatives Logan, Insko, and R. Smith (Primary Sponsors).

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Rules, Calendar, and Operations of the House

May 5, 2021

1 A BILL TO BE ENTITLED
2 AN ACT TO PROHIBIT THE MISTREATMENT OF CONTRACT EMPLOYEES WORKING
3 IN STATE GOVERNMENT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Chapter 126 of the General Statutes is amended by adding a new
6 Article to read:

7 "Article 17.

8 "Contract Employee Protection.

9 **"§ 126-100. Definitions.**

10 The following definitions apply in this Article:

- 11 (1) Adverse action. – Any of the following actions taken by a private third-party
12 employer or a State government employee against a contract employee:
13 a. Reassignment to less desired work location.
14 b. A reduction in compensation.
15 c. Failure to give a promised or customary increase in compensation or
16 work status.
17 d. Disciplinary action including discharge, demotion, or transfer.
18 e. More intensive or critical supervision.
19 f. Withdrawal of previously allowed privileges.
20 g. Assignment to more difficult duties.
21 h. Demanding increased production for a retaliatory purpose.
22 i. Treatment that subjects the contract employee to workplace bullying.
23 (2) Contract employee. – An employee of a private third-party employer who is
24 assigned to work in a State government workplace or on a State-controlled
25 project.
26 (3) Private third-party employer. – A nongovernmental employer that (i) employs
27 two or more employees and (ii) has a contract with the State to furnish
28 employees to a State agency, department, or institution to perform personal
29 services in a State government workplace or on a State-controlled project.
30 (4) Workplace bullying. – A persistent pattern of mistreatment from others in the
31 workplace that causes either physical, emotional, or financial harm, including,
32 but not limited to, verbal, nonverbal, psychological, or physical abuse and
33 interference with an employee's work or career advancement.

34 **"§ 126-101. Mistreatment of contract employees prohibited.**



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1 (a) It is against the public policy of this State for any State employee to mistreat a contract
2 employee in the State government workplace or in connection with a State-controlled project. It
3 is the duty of each supervisor in a State government workplace to take all reasonable steps to
4 prevent mistreatment of contract employees.

5 (b) No State employee shall take or cause a private third-party employer to initiate an
6 adverse action against a contract employee in retaliation for the contract employee doing any of
7 the following:

8 (1) Making a complaint or providing information, in good faith, to the North
9 Carolina Department of Labor or the United States Department of Labor about
10 a possible labor law violation by the private third-party employer or by a State
11 agency, department, or institution.

12 (2) Testifying in any investigation made or other proceeding held under State,
13 local, or federal law relating to a State government workplace or
14 State-controlled project.

15 (3) Exercising any employee rights that are protected under State, local, or federal
16 law.

17 (4) Complaining about workplace bullying in a State government workplace or in
18 connection with a State-controlled project.

19 Any State employee who violates this subsection shall be subject to disciplinary action up to
20 and including termination from State government employment.

21 (c) A private third-party employer shall not take adverse action against a contract
22 employee in retaliation for the contract employee doing any of the following:

23 (1) Making a complaint or providing information, in good faith, to the North
24 Carolina Department of Labor or the United States Department of Labor about
25 a possible labor law violation by the private third-party employer or by a State
26 agency, department, or institution.

27 (2) Testifying in any investigation made or other proceeding held under State,
28 local, or federal law relating to a State government workplace or
29 State-controlled project.

30 (3) Exercising any employee rights that are protected under State, local, or federal
31 law.

32 (4) Complaining about workplace bullying in the State government workplace or
33 in connection with a State-controlled project.

34 The North Carolina Department of Labor shall investigate alleged violations of this section
35 and may assess a civil penalty against a private third-party employer in an amount from one
36 thousand dollars (\$1,000) to twenty thousand dollars (\$20,000) for each violation of this section.
37 A private third-party employer who is found by the North Carolina Department of Labor to have
38 violated this section shall be ineligible to enter into contracts with any State agency, department,
39 or institution for a period of five years.

40 The contract employee may bring a civil action against a private third-party employer for a
41 violation of this subsection in the superior court of the county where the violation occurred or
42 where the contract employee lives within two years of the date of the alleged adverse action. If
43 the contract employee is the prevailing party in an action under this subsection, the court may
44 order reinstatement, back pay, and other appropriate relief, and shall order payment of the
45 prevailing party's attorney fees and litigation costs by the losing party.

46 **"§ 126-102. Applicability; notices; rules.**

47 (a) This Article applies to all State employees, including those employees who are subject
48 to and those who are exempt from the provisions of this Chapter.

49 (b) It is the duty of both the private third-party employer and the State employer to post
50 notice in accordance with G.S. 95-9 or use other appropriate means to keep all employees
51 informed of their protections and obligations under this Article.

1 (c) This section provides rights, obligations, procedures, and relief in addition to, and not
2 in lieu of, what is provided under Article 14 of this Chapter and Article 21 of Chapter 95 of the
3 General Statutes.

4 (d) The North Carolina Department of Labor and the State Human Resources
5 Commission shall collaborate, and each shall adopt the appropriate rules, to carry out the
6 provisions of this Article."

7 **SECTION 2.** This act is effective when it becomes law.