

Article 5.

Administration.

Part 1. Organization and Reorganization of County Government.

§ 153A-76. Board of commissioners to organize county government.

The board of commissioners may create, change, abolish, and consolidate offices, positions, departments, boards, commissions, and agencies of the county government, may impose ex officio the duties of more than one office on a single officer, may change the composition and manner of selection of boards, commissions, and agencies, and may generally organize and reorganize the county government in order to promote orderly and efficient administration of county affairs, subject to the following limitations:

- (1) The board may not abolish an office, position, department, board, commission, or agency established or required by law.
- (2) The board may not combine offices or confer certain duties on the same officer when this action is specifically forbidden by law.
- (3) The board may not discontinue or assign elsewhere a function or duty assigned by law to a particular office, position, department, board, commission, or agency.
- (4) The board may not change the composition or manner of selection of a local board of education, the board of elections, or the board of alcoholic beverage control.
- (5) The board may not abolish nor consolidate into a human services agency a hospital authority assigned to provide public health services pursuant to Section 12 of S.L. 1997-502 or a public health authority assigned the power, duties, and responsibilities to provide public health services as outlined in G.S. 130A-1.1.
- (6) A board may not consolidate an area mental health, developmental disabilities, and substance abuse services board into a consolidated human services board. The board may not abolish an area mental health, developmental disabilities, and substance abuse services board, except as provided in Chapter 122C of the General Statutes. This subdivision shall not apply to any board that has exercised the powers and duties of an area mental health, developmental disabilities, and substance abuse services board as of January 1, 2012.
- (7) The board may not abolish, assume control over, or consolidate into a human services agency a public hospital as defined in G.S. 159-39(a) pursuant to G.S. 153A-77. (1973, c. 822, s. 1; 2012-126, s. 2.)

§ 153A-77. Authority of boards of commissioners over commissions, boards, agencies, etc.

(a) In the exercise of its jurisdiction over commissions, boards and agencies, the board of county commissioners may assume direct control of any activities theretofore conducted by or through any commission, board or agency by the adoption of a resolution assuming and conferring upon the board of county commissioners all powers, responsibilities and duties of any such commission, board or agency. This section shall apply to the board of health, the social services board, area mental health, developmental disabilities, and substance abuse area board or any other commission, board or agency appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners of said county except as provided in G.S. 153A-76. A board of county commissioners exercising the power and authority under this subsection may, notwithstanding G.S. 130A-25, enforce public health rules adopted by the board

through the imposition of civil penalties. If a public health rule adopted by a board of county commissioners imposes a civil penalty, the provisions of G.S. 130A-25 making its violation a misdemeanor shall not be applicable to that public health rule unless the rule states that a violation of the rule is a misdemeanor. The board of county commissioners may exercise the power and authority herein conferred only after a public hearing held by said board pursuant to 30 days' notice of said public hearing given in a newspaper having general circulation in said county.

The board of county commissioners may also appoint advisory boards, committees, councils and agencies composed of qualified and interested county residents to study, interpret and develop community support and cooperation in activities conducted by or under the authority of the board of county commissioners of said county.

A board of county commissioners that has assumed direct control of a local health board after January 1, 2012, and that does not delegate the powers and duties of that board to a consolidated health service board shall appoint an advisory committee consistent with the membership described in G.S. 130A-35.

(b) In the exercise of its jurisdiction over commissions, boards, and agencies, the board of county commissioners of a county having a county manager pursuant to G.S. 153A-81 may:

- (1) Consolidate certain provisions of human services in the county under the direct control of a human services director appointed and supervised by the county manager in accordance with subsection (e) of this section;
- (2) Create a consolidated human services board having the powers conferred by subsection (c) of this section;
- (3) Create a consolidated county human services agency having the authority to carry out the functions of any combination of commissions, boards, or agencies appointed by the board of county commissioners or acting under and pursuant to authority of the board of county commissioners, including the local health department, the county department of social services, or the area mental health, developmental disabilities, and substance abuse services authority; and
- (4) Assign other county human services functions to be performed by the consolidated human services agency under the direction of the human services director, with policy-making authority granted to the consolidated human services board as determined by the board of county commissioners.

(c) A consolidated human services board appointed by the board of county commissioners shall serve as the policy-making, rule-making, and administrative board of the consolidated human services agency. The consolidated human services board shall be composed of no more than 25 members. The composition of the board shall reasonably reflect the population makeup of the county and shall include:

- (1) Eight persons who are consumers of human services, public advocates, or family members of clients of the consolidated human services agency, including: one person with mental illness, one person with a developmental disability, one person in recovery from substance abuse, one family member of a person with mental illness, one family member of a person with a developmental disability, one family member of a person with a substance abuse problem, and two consumers of other human services.
- (1a) Notwithstanding subdivision (1) of this subsection, a consolidated human services board not exercising powers and duties of an area mental health,

developmental disabilities, and substance abuse services board shall include four persons who are consumers of human services.

- (2) Eight persons who are professionals, each with qualifications in one of these categories: one psychologist, one pharmacist, one engineer, one dentist, one optometrist, one veterinarian, one social worker, and one registered nurse.
- (3) Two physicians licensed to practice medicine in this State, one of whom shall be a psychiatrist.
- (4) One member of the board of county commissioners.
- (5) Other persons, including members of the general public representing various occupations.

The board of county commissioners may elect to appoint a member of the consolidated human services board to fill concurrently more than one category of membership if the member has the qualifications or attributes of more than one category of membership.

All members of the consolidated human services board shall be residents of the county. The members of the board shall serve four-year terms. No member may serve more than two consecutive four-year terms. The county commissioner member shall serve only as long as the member is a county commissioner.

The initial board shall be appointed by the board of county commissioners upon the recommendation of a nominating committee comprised of members of the preconsolidation board of health, social services board, and area mental health, developmental disabilities, and substance abuse services board. In order to establish a uniform staggered term structure for the board, a member may be appointed for less than a four-year term. After the subsequent establishment of the board, its board shall be appointed by the board of county commissioners from nominees presented by the human services board. Vacancies shall be filled for any unexpired portion of a term.

A chairperson shall be elected annually by the members of the consolidated human services board. A majority of the members shall constitute a quorum. A member may be removed from office by the county board of commissioners for (i) commission of a felony or other crime involving moral turpitude; (ii) violation of a State law governing conflict of interest; (iii) violation of a written policy adopted by the county board of commissioners; (iv) habitual failure to attend meetings; (v) conduct that tends to bring the office into disrepute; or (vi) failure to maintain qualifications for appointment required under this subsection. A board member may be removed only after the member has been given written notice of the basis for removal and has had the opportunity to respond.

A member may receive a per diem in an amount established by the county board of commissioners. Reimbursement for subsistence and travel shall be in accordance with a policy set by the county board of commissioners. The board shall meet at least quarterly. The chairperson or three of the members may call a special meeting.

- (d) The consolidated human services board shall have authority to:
 - (1) Set fees for departmental services based upon recommendations of the human services director. Fees set under this subdivision are subject to the same restrictions on amount and scope that would apply if the fees were set by a county board of health, a county board of social services, or a mental health, developmental disabilities, and substance abuse area authority.
 - (2) Assure compliance with laws related to State and federal programs.
 - (3) Recommend creation of local human services programs.

- (4) Adopt local health regulations and participate in enforcement appeals of local regulations.
- (5) Perform regulatory health functions required by State law.
- (6) Act as coordinator or agent of the State to the extent required by State or federal law.
- (7) Plan and recommend a consolidated human services budget.
- (8) Conduct audits and reviews of human services programs, including quality assurance activities, as required by State and federal law or as may otherwise be necessary periodically.
- (9) Advise local officials through the county manager.
- (10) Perform public relations and advocacy functions.
- (11) Protect the public health to the extent required by law.
- (12) Perform comprehensive mental health services planning if the county is exercising the powers and duties of an area mental health, developmental disabilities, and substance abuse services board under the consolidated human services board.
- (13) Develop dispute resolution procedures for human services contractors and clients and public advocates, subject to applicable State and federal dispute resolution procedures for human services programs, when applicable.

Except as otherwise provided, the consolidated human services board shall have the powers and duties conferred by law upon a board of health, a social services board, and an area mental health, developmental disabilities, and substance abuse services board.

Local employees who serve as staff of a consolidated county human services agency are subject to county personnel policies and ordinances only and are not subject to the provisions of the North Carolina Human Resources Act, unless the county board of commissioners elects to subject the local employees to the provisions of that Act. All consolidated county human services agencies shall comply with all applicable federal laws, rules, and regulations requiring the establishment of merit personnel systems.

(e) The human services director of a consolidated county human services agency shall be appointed and dismissed by the county manager with the advice and consent of the consolidated human services board. The human services director shall report directly to the county manager. The human services director shall:

- (1) Appoint staff of the consolidated human services agency with the county manager's approval.
- (2) Administer State human services programs.
- (3) Administer human services programs of the local board of county commissioners.
- (4) Act as secretary and staff to the consolidated human services board under the direction of the county manager.
- (5) Plan the budget of the consolidated human services agency.
- (6) Advise the board of county commissioners through the county manager.
- (7) Perform regulatory functions of investigation and enforcement of State and local health regulations, as required by State law.
- (8) Act as an agent of and liaison to the State, to the extent required by law.
- (9) Appoint, with the county manager's approval, an individual that meets the requirements of G.S. 130A-40(a).

Except as otherwise provided by law, the human services director or the director's designee shall have the same powers and duties as a social services director, a local health director, or a director of an area mental health, developmental disabilities, and substance abuse services authority.

(f) Repealed by Session Laws 2012-126, s. 1, effective June 29, 2012. (1973, c. 454, ss. 1-21/2; 1985, c. 589, s. 56; c. 754, s. 1; 1987, c. 217, ss. 1, 2; 1995 (Reg. Sess., 1996), c. 690, s. 3; 2001-120, s. 1; 2012-126, s. 1; 2013-382, s. 9.1(c).)

§ 153A-77.1. Single portal of entry.

A county may develop for human services a single portal of entry, a consolidated case management system, and a common data base; provided that if the county is part of a district health department or multicounty public health authority or a multicounty area mental health, developmental disabilities, and substance abuse authority, such action must be approved by the district board of health or public health authority board or the area mental health, developmental disabilities, and substance abuse board to affect any matter within the jurisdiction of that board. Nothing in this section shall be construed to abrogate a patient's right to confidentiality as provided by law. (1987, c. 422, s. 1; 1991 (Reg. Sess., 1992), c. 1030, s. 47; 1997-502, s. 5.)

§ 153A-78. Reserved for future codification purposes.

§ 153A-79. Reserved for future codification purposes.

§ 153A-80. Reserved for future codification purposes.

Part 2. Administration in Counties Having Managers.

§ 153A-81. Adoption of county-manager plan; appointment or designation of manager.

The board of commissioners may by resolution adopt or discontinue the county-manager plan. If it adopts the county-manager plan, the board may, in the alternative:

- (1) Appoint a county manager to serve at its pleasure. The manager shall be appointed solely on the basis of his executive and administrative qualifications. He need not be a resident of the county or the State at the time of his appointment.
- (2) Confer upon the chairman or some other member of the board of commissioners the duties of county manager. If this is done, the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153A-28.
- (3) Confer upon any other officer, employee, or agent of the county the duties of county manager.

As used in this Part, the word "manager" includes the chairman or any member of the board of commissioners exercising the duties of manager or any officer, employee, or agent of a county exercising the duties of manager. (1927, c. 91, ss. 5, 8; 1973, c. 822, s. 1.)

§ 153A-82. Powers and duties of manager.

(a) The manager is the chief administrator of county government. The manager is responsible to the board of commissioners for the administration of all departments of county government under the board's general control and has the following powers and duties:

- (1) He shall appoint with the approval of the board of commissioners and suspend or remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may by resolution permit the manager to appoint officers, employees, and agents without first securing the board's approval. The manager shall make his appointments, suspensions, and removals in accordance with any general personnel rules, regulations, policies, or ordinances that the board may adopt. The board may require the manager to report each suspension or removal to the board at the board's first regular meeting following the suspension or removal; and, if the board has permitted the manager to make appointments without board approval, the board may require the manager to report each appointment to the board at the board's first regular meeting following the appointment.
- (2) He shall direct and supervise the administration of all county offices, departments, boards, commissions and agencies under the general control of the board of commissioners, subject to the general direction and control of the board.
- (3) He shall attend all meetings of the board of commissioners and recommend any measures that he considers expedient.
- (4) He shall see that the orders, ordinances, resolutions, and regulations of the board of commissioners are faithfully executed within the county.
- (5) He shall prepare and submit the annual budget and capital program to the board of commissioners.
- (6) He shall annually submit to the board of commissioners and make available to the public a complete report on the finances and administrative activities of the county as of the end of the fiscal year.
- (7) He shall make any other reports that the board of commissioners may require concerning the operations of county offices, departments, boards, commissions, and agencies.
- (8) He shall perform any other duties that may be required or authorized by the board of commissioners.
- (9) The manager shall receive a minimum of six clock hours of education upon the occurrence, or within six months of the occurrence, of any of the following:
 - a. The Local Government Commission is exercising its authority under Article 10 of Chapter 159 of the General Statutes with respect to the county.
 - b. The county has received a unit letter from the Local Government Commission due to a deficiency in complying with Chapter 159 of the General Statutes.
 - c. The county has an internal control material weakness or significant deficiency in the most recently completed financial audit.
 - d. The county is included on the most recently published Unit Assistance List issued by the Department of State Treasurer.

(b) The education required by subdivision (9) of subsection (a) of this section shall incorporate fiscal management and the requirements of Chapter 159 of the General Statutes. The education may be provided by the Local Government Commission, the School of Government at

the University of North Carolina, the North Carolina Community College System, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, or other qualified sources at the choice of the governing board and upon the prior approval of the Local Government Commission. The clerk to the governing board shall maintain a record verifying receipt of the education by the manager and shall provide this information, upon request, to the Secretary of the Local Government Commission. (1927, c. 91, ss. 6, 7; 1973, c. 822, s. 1; 2021-124, s. 3.)

§ 153A-83. Acting county manager.

By letter filed with the clerk, the manager may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of manager during the manager's temporary absence or disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the manager returns or his disability ceases. (1973, c. 822, s. 1.)

§ 153A-84. Interim county manager.

Whenever the position of county manager is vacant, the board of commissioners shall designate a qualified person to exercise the powers and perform the duties of manager until the vacancy is filled. The board may designate the chairman or some other member as interim manager; for the interim the chairman or member shall become a full-time county official, and the board may increase his salary pursuant to G.S. 153A-28. (1973, c. 822, s. 1.)

§§ 153A-85 through 153A-86. Reserved for future codification purposes.

Part 3. Administration in Counties Not Having Managers.

§ 153A-87. Administration in counties not having managers.

In a county that has not adopted or does not operate under the county-manager plan, the board of commissioners shall appoint, suspend, and remove all county officers, employees, and agents except those who are elected by the people or whose appointment is otherwise provided for by law. The board may delegate to the head of any county department the power to appoint, suspend, and remove county officers or employees assigned to his department. (1973, c. 822, s. 1.)

§ 153A-88. Acting department heads.

By letter filed with the clerk, the head of a department may designate, subject to the approval of the board of commissioners, a qualified person to exercise the powers and perform the duties of head of that department during the department head's temporary absence or disability. During an absence or disability, the board may revoke the designation at any time and appoint another person to serve until the department head returns or his disability ceases. (1973, c. 822, s. 1.)

§ 153A-89. Interim department heads.

Whenever the position of head of a department is vacant, the board may designate a qualified person to exercise the powers and perform the duties of head of the department until the vacancy is filled. (1973, c. 822, s. 1.)

§§ 153A-90 through 153A-91. Reserved for future codification purposes.

Part 4. Personnel.

§ 153A-92. Compensation.

(a) Subject to the limitations set forth in subsection (b) of this section, the board of commissioners shall fix or approve the schedule of pay, expense allowances, and other compensation of all county officers and employees, whether elected or appointed, and may adopt position classification plans.

(b) In exercising the authority granted by subsection (a) of this section, the board of commissioners is subject to the following limitations:

- (1) The board of commissioners may not reduce the salary, allowances, or other compensation paid to an officer elected by the people for the duties of his elective office if the reduction is to take effect during the term of office for which the incumbent officer has been elected, unless the officer agrees to the reduction or unless the Local Government Commission pursuant to Chapter 159, Article 10, orders a reduction.
- (2) During the year of a general election, the board of commissioners may reduce the salary, allowances, or other compensation of an officer to be elected at the general election only in accordance with this subdivision. The board of commissioners shall by resolution give notice of intention to make the reduction no later than 14 days before the last day for filing notice of candidacy for the office. The resolution shall set forth the reduced salary, allowances, and other compensation and shall provide that the reduction is to take effect at the time the person elected to the office in the general election takes office. Once adopted, the resolution may not be altered until the person elected to the office in the general election has taken office. The filing fee for the office shall be determined by reference to the reduced salary.
- (3) If the board of commissioners reduces the salaries, allowances, or other compensation of employees assigned to an officer elected by the people, and the reduction does not apply alike to all county offices and departments, the elected officer involved must approve the reduction. If the elected officer refuses to approve the reduction, he and the board of commissioners shall meet and attempt to reach agreement. If agreement cannot be reached, either the board or the officer may refer the dispute to arbitration by the senior resident superior court judge of the superior court district or set of districts as defined in G.S. 7A-41.1 in which the county is located. The judge shall make an award within 30 days after the day the matter is referred to him. The award may extend for no more than two fiscal years, including the fiscal year for which it is made.
- (4) The board of commissioners shall fix their own salaries, allowances, and other compensation in accordance with G.S. 153A-28.
- (5) The board of commissioners shall fix the salaries, allowances and other compensation of county employees subject to the North Carolina Human Resources Act according to the procedures set forth in Chapter 126. The board may make these employees subject to a county position classification plan only as provided in Chapter 126.

(c) In counties with a county manager, the manager is responsible for preparing position classification and pay plans for submission to the board of commissioners and for administering the pay plan and any position classification plan in accordance with general policies and directives

adopted by the board. In counties without a county manager, the board of commissioners shall appoint or designate a personnel officer, who shall then be responsible for administering the pay plan and any position classification plan in accordance with general policies and directives adopted by the board.

(d) A county may purchase life insurance or health insurance or both for the benefit of all or any class of county officers and employees as a part of their compensation. A county may provide other fringe benefits for county officers and employees. In providing health insurance to county officers and employees, a county shall not provide abortion coverage greater than that provided by the State Health Plan for Teachers and State Employees under Article 3B of Chapter 135 of the General Statutes. (1927, c. 91, s. 8; 1953, c. 1227, ss. 1-3; 1969, c. 358, s. 1; c. 1017; 1973, c. 822, s. 1; 1987 (Reg. Sess., 1988), c. 1037, s. 122; 2013-366, s. 2(b); 2013-382, s. 9.1(c).)

§ 153A-93. Retirement benefits.

(a) The board of commissioners may provide for enrolling county officers and employees in the Local Governmental Employees' Retirement System, the Law-Enforcement Officers' Benefit and Relief Fund, the Firemen's Pension Fund, or a retirement plan certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section and may make payments into such a retirement system or plan on behalf of its employees.

(b) No county may make payments into a retirement system or plan established or authorized by a local act unless the system or plan is certified to be actuarially sound by a qualified actuary as defined in subsection (c) of this section.

(c) A qualified actuary means a member of the American Academy of Actuaries or an individual certified as qualified by the Commissioner of Insurance.

(d) A county which is providing health insurance under G.S. 153A-92(d) may provide health insurance for all or any class of former officers and employees of the county. Such health insurance may be paid entirely by the county, partly by the county and former officer or employee, or entirely by the former officer or employee, at the option of the county.

(d1) On and after October 1, 2009, a county which is providing health insurance under G.S. 153A-92(d) may provide health insurance for all or any class of former officers and employees of the county who have obtained at least 10 years of service with the county prior to separation from the county and who are not receiving benefits under subsection (a) of this section. Such health insurance may be paid entirely by the county, partly by the county and former officer or employee, or entirely by the former officer or employee, at the option of the county.

(d2) Notwithstanding subsection (d) of this section, any county that has elected to and is covering its active employees only, or its active and retired employees, under the State Health Plan, or elects such coverage under the Plan, may not provide health insurance through the State Health Plan to all or any class of former officers and employees who are not receiving benefits under subsection (a) of this section. The county may, however, provide health insurance to such former officers and employees by any other means authorized by G.S. 153A-92(d). The health insurance premium may be paid entirely by the county, partly by the county and former officer or employee, or entirely by the former officer or employee, at the option of the county.

(e) The board of commissioners may provide a deferred compensation plan. Where the board of commissioners provides a deferred compensation plan, the investment of funds for the plan shall be exempt from the provisions of G.S. 159-30 and G.S. 159-31. Counties may invest deferred compensation plan funds in life insurance, fixed or variable annuities and retirement income contracts, regulated investment trusts, or other forms of investments approved by the

Board of Trustees of the North Carolina Public Employee Deferred Compensation Plan. (1973, c. 822, s. 1; 1981, c. 347, s. 1; 1991, c. 277, s. 1; 2009-564, ss. 1, 2.)

§ 153A-94. Personnel rules; office hours, workdays, and holidays.

(a) The board of commissioners may adopt or provide for rules and regulations or ordinances concerning but not limited to annual leave, sick leave, special leave with full pay or with partial pay supplementing workers' compensation payments for employees injured in accidents arising out of and in the course of employment, working conditions, service award and incentive award programs, other personnel policies, and any other measures that promote the hiring and retention of capable, diligent, and honest career employees.

(b) The board of commissioners may prescribe the office hours, workdays, and holidays to be observed by the various offices, departments, boards, commissions, and agencies of the county. (1959, c. 251; 1973, c. 822, s. 1; 1991, c. 636, s. 3.)

§ 153A-94.1. (See note on condition precedent) Smallpox vaccination policy.

All counties that employ firefighters, law enforcement officers, paramedics, other first responders, or health department employees shall, not later than 90 days after this section becomes law, enact a policy regarding sick leave and salary continuation for those employees for absence from work due to an adverse medical reaction resulting from the employee receiving in employment vaccination against smallpox incident to the Administration of Smallpox Countermeasures by Health Professionals, section 304 of the Homeland Security Act, Pub. L. No. 107-296 (Nov. 25, 2002) (to be codified at 42 U.S.C. § 233(p)). (2003-169, s. 6.)

§ 153A-94.2. Criminal history record checks of employees permitted.

The board of commissioners may adopt or provide for rules and regulations or ordinances concerning a requirement that any applicant for employment be subject to a criminal history record check of State and National Repositories of Criminal Histories conducted by the State Bureau of Investigation in accordance with G.S. 143B-1209.25 [G.S. 143B-1209.26]. The local or regional public employer may consider the results of these criminal history record checks in its hiring decisions. (2005-358, s. 2; 2014-100, s. 17.1(mmm); 2023-134, s. 19F.4(x).)

§ 153A-95. Personnel board.

The board of commissioners may establish a personnel board with authority, as regards employees in offices, departments, boards, commissions, and agencies under the general control of the board of commissioners, to administer tests designed to determine the merit and fitness of candidates for appointment or promotion, to conduct hearings upon the appeal of employees who have been suspended, demoted, or discharged, to hear employee grievances, or to undertake any other duties relating to personnel administration that the board of commissioners may direct. (1973, c. 822, s. 1.)

§ 153A-96. Participation in the Social Security Act.

The board of commissioners may take any action necessary to allow county officers and employees to participate fully in benefits provided by the Federal Social Security Act. (1973, c. 822, s. 1.)

§ 153A-97. Defense of officers, employees and others.

A county may, pursuant to G.S. 160A-167, provide for the defense of:

- (1) Any county officer or employee, including the county board of elections or any county election official.
- (2) Any member of a volunteer fire department or rescue squad which receives public funds.
- (2a) Any soil and water conservation supervisor, and any local soil and water conservation employee, whether the employee is a county employee or an employee of a soil and water conservation district.
- (3) Any person or professional association who at the request of the board of county commissioners provides medical or dental services to inmates in the custody of the sheriff and is sued pursuant to 42 U.S.C. § 1983 with respect to the services. (1957, c. 436; 1973, c. 822, s. 1; 1977, c. 307, s. 1; 1989, c. 733, s. 2; 2001-300, s. 1.)

§ 153A-98. Privacy of employee personnel records.

(a) Notwithstanding the provisions of G.S. 132-6 or any other general law or local act concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by a county are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the county with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes former employees of the county.

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

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to the county service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the county has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that county.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation or other change in position classification with that county.
- (10) Date and general description of the reasons for each promotion with that county.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the county. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the county setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The board of county commissioners shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the board of commissioners may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in a county employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) A county employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution of the employee, or for the purpose of assisting in an investigation of the employee's tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (7) The county manager, with concurrence of the board of county commissioners, or, in counties not having a manager, the board of county commissioners may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of a county employee and the reasons for that personnel action. Before releasing the information, the manager or board shall determine in writing that the release is essential to maintaining public confidence in the administration of county services or to maintaining the level and quality of county services. This written determination shall be retained in the office of the manager or the county clerk, is a record available for public inspection and shall become part of the employee's personnel file.

(c1) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

- (1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the county's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- (2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.
- (3) Information that might identify an undercover law enforcement officer or a law enforcement informer.
- (4) Notes, preliminary drafts and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(c2) The board of county commissioners may permit access, subject to limitations they may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that he will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the county as long as each personnel file so examined is retained.

(c3) Repealed by Session Laws 2016-108, s. 2(g), effective July 22, 2016.

(c4) Even if considered part of an employee's personnel file, the following information regarding any sworn law enforcement officer shall not be disclosed to an employee or any other person, unless disclosed in accordance with G.S. 132-1.4, or in accordance with G.S. 132-1.10, or for the personal safety of that sworn law enforcement officer or any other person residing in the same residence:

- (1) Information that might identify the residence of a sworn law enforcement officer.
- (2) Emergency contact information.
- (3) Any identifying information as defined in G.S. 14-113.20.

(c5) Notwithstanding the requirements of this section, information shall be provided to the State Board of Elections from employee personnel records as provided in G.S. 163-22.

(d) The board of commissioners of a county that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee who objects to material in his file on grounds that it is inaccurate or misleading may seek to have the material removed from the file or may place in the file a statement relating to the material.

(e) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 3 misdemeanor and upon conviction shall only be fined an amount not more than five hundred dollars (\$500.00).

(f) Any person, not specifically authorized by this section to have access to a personnel file designated as confidential, who shall knowingly and willfully examine in its official filing place, remove or copy any portion of a confidential personnel file shall be guilty of a Class 3

misdeemeanor and upon conviction shall only be fined in the discretion of the court but not in excess of five hundred dollars (\$500.00). (1975, c. 701, s. 1; 1981, c. 926, ss. 1, 5-8; 1993, c. 539, ss. 1059, 1060; 1994, Ex. Sess., c. 24, s. 14(c); 2007-508, s. 6; 2008-194, s. 11(d); 2010-169, s. 18(e); 2015-225, s. 1; 2016-108, s. 2(g); 2018-13, s. 3.2(b); 2018-146, s. 6.1.)

§ 153A-99. County employee political activity.

(a) Purpose. The purpose of this section is to ensure that county employees are not subjected to political or partisan coercion while performing their job duties, to ensure that employees are not restricted from political activities while off duty, and to ensure that public funds are not used for political or partisan activities.

It is not the purpose of this section to allow infringement upon the rights of employees to engage in free speech and free association. Every county employee has a civic responsibility to support good government by every available means and in every appropriate manner. Employees shall not be restricted from affiliating with civic organizations of a partisan or political nature, nor shall employees, while off duty, be restricted from attending political meetings, or advocating and supporting the principles or policies of civic or political organizations, or supporting partisan or nonpartisan candidates of their choice in accordance with the Constitution and laws of the State and the Constitution and laws of the United States of America.

(b) Definitions. For the purposes of this section:

- (1) "County employee" or "employee" means any person employed by a county or any department or program thereof that is supported, in whole or in part, by county funds;
- (2) "On duty" means that time period when an employee is engaged in the duties of his or her employment; and
- (3) "Workplace" means any place where an employee engages in his or her job duties.

(c) No employee while on duty or in the workplace may:

- (1) Use his or her official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for political office; or
- (2) Coerce, solicit, or compel contributions for political or partisan purposes by another employee.

(d) No employee may be required as a duty or condition of employment, promotion, or tenure of office to contribute funds for political or partisan purposes.

(e) No employee may use county funds, supplies, or equipment for partisan purposes, or for political purposes except where such political uses are otherwise permitted by law.

(f) To the extent that this section conflicts with the provisions of any local act, local ordinance, resolution, or policy, this section prevails to the extent of the conflict. (1991, c. 619, s. 1; 1993, c. 298, s. 1.)

§ 153A-99.1. County verification of employee work authorization.

(a) Counties Must Use E-Verify. – Each county shall register and participate in E-Verify to verify the work authorization of new employees hired to work in the United States.

(b) E-Verify Defined. – As used in this section, the term "E-Verify" means the federal E-Verify program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.

(c) Nondiscrimination. – This section shall be enforced without regard to race, religion, gender, ethnicity, or national origin. (2011-263, s. 4.)

§ 153A-100. Reserved for future codification purposes.

Part 5. Board of Commissioners and Other Officers, Boards, Departments, and Agencies of the County.

§ 153A-101. Board of commissioners to direct fiscal policy of the county.

The board of commissioners has and shall exercise the responsibility of developing and directing the fiscal policy of the county government under the provisions and procedures of the Local Government Budget and Fiscal Control Act. (1777, c. 129, s. 4, P.R.; R.C., c. 28, s. 16; Code, s. 753; Rev., s. 1379; C.S., s. 1325; 1927, c. 91, s. 11; 1953, c. 973, s. 2; 1973, c. 822, s. 1.)

§ 153A-102. Commissioners to fix fees.

The board of commissioners may fix the fees and commissions charged by county officers and employees for performing services or duties permitted or required by law. The board may not, however, fix fees in the General Court of Justice or modify the fees of the register of deeds prescribed by G.S. 161-10 or the fees of the board of elections prescribed by G.S. 163-107. (1953, c. 1227, ss. 1-3; 1969, c. 358, s. 1; c. 1017; 1973, c. 822, s. 1; 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

§ 153A-102.1: Repealed by Session Laws 2019-111, s. 2.6(a), as amended by Session Laws 2020-3, s. 4.33(a), and Session Laws 2020-25, s. 51(a), (b), (d), effective June 19, 2020.

§ 153A-103. Number of employees in offices of sheriff and register of deeds.

Subject to the limitations set forth below, the board of commissioners may fix the number of salaried employees in the offices of the sheriff and the register of deeds. In exercising the authority granted by this section, the board of commissioners is subject to the following limitations:

- (1) Each sheriff and register of deeds elected by the people has the exclusive right to hire, discharge, and supervise the employees in his office. However, the board of commissioners must approve the appointment by such an officer of a relative by blood or marriage of nearer kinship than first cousin or of a person who has been convicted of a crime involving moral turpitude.
- (2) Each sheriff and register of deeds elected by the people is entitled to at least two deputies who shall be reasonably compensated by the county, provided that the register of deeds justifies to the Board of County Commissioners the necessity of the second deputy. Each deputy so appointed shall serve at the pleasure of the appointing officer.

Notwithstanding the foregoing provisions of this section, approval of the board of commissioners is not required for the reappointment or continued employment of a near relative of a sheriff or register of deeds who was not related to the appointing officer at the time of initial appointment. (1953, c. 1227, ss. 1, 2; 1969, c. 358, s. 1; 1973, c. 822, s. 1; 1977, c. 36; 1979, c. 551; 1987, c. 362.)

§ 153A-104. Reports from officers, employees, and agents of the county.

The board of commissioners may require any officer, employee, or agent of the county to make to the board, either directly or through the county manager, periodic or special reports concerning any matter connected with the officer's, employee's or agent's duties. The board may require that such a report be made under oath. If a person fails or refuses to obey a reasonable order to make a report, issued pursuant to this section, the board may apply to the appropriate division of the General Court of Justice for an order requiring that its order be obeyed. The court has jurisdiction to issue these orders. (1868, c. 20, s. 8; Code, s. 707; Rev., s. 1318; C.S., s. 1297; 1973, c. 822, s. 1.)

§§ 153A-105 through 153A-110. Reserved for future codification purposes.

Part 6. Clerk to the Board of Commissioners.

§ 153A-111. Appointment; powers and duties.

The board of commissioners shall appoint or designate a clerk to the board. The board may designate the register of deeds or any other county officer or employee as clerk. The clerk shall perform any duties that may be required by law or the board of commissioners. The clerk shall serve as such at the pleasure of the board. (Const., art. 7, s. 2; Code, s. 710; 1895, c. 135, s. 4; Rev., s. 1324; C.S., s. 1309; 1955, c. 247, s. 1; 1963, c. 372; 1969, c. 207; 1973, c. 822, s. 1.)

§§ 153A-112 through 153A-113. Reserved for future codification purposes.

Part 7. County Attorney.

§ 153A-114. Appointment; duties.

The board of commissioners shall appoint a county attorney to serve at its pleasure and to be its legal adviser. (1973, c. 822, s. 1.)

§§ 153A-115 through 153A-120. Reserved for future codification purposes.