

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE BILL 344

Short Title: Government Transparency Act of 2011. (Public)

Sponsors: Senators Clary, Tucker, Goolsby; Brock, Davis, Forrester, Harrington, Hunt, Newton, and Rabon.

Referred to: Judiciary I.

March 15, 2011

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

The General Assembly of North Carolina enacts:

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

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

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to State 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 agency 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 department, agency, institution, commission, or bureau.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that department, agency, institution, commission, or bureau.
- (10) Date and general description of the reasons for each promotion with that department, agency, institution, commission, or bureau. A general description of the reasons for each promotion, demotion, transfer, suspension, separation, or other change in position classification with that department, agency, institution, commission, or bureau.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the department, agency, institution, commission, or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal.
- (11) The performance of the employee, to the extent that the agency has performance records in its possession.
- (12) The office or station to which the employee is currently assigned."



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

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

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

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

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

- 32 (1) Name.
- 33 (2) Age.
- 34 (3) Date of original employment or appointment.
- 35 (4) The terms of any contract by which the employee is employed whether
36 written or oral, past and current, to the extent that the board has the written
37 contract or a record of the oral contract in its possession.
- 38 (5) Current position.
- 39 (6) Title.
- 40 (7) Current salary.
- 41 (8) Date and amount of each increase or decrease in salary with that community
42 college.
- 43 (9) Date and type of each promotion, demotion, transfer, suspension, separation,
44 or other change in position classification with that community college.
- 45 (10) ~~Date and general description of the reasons for each promotion with that~~
46 ~~community college.~~ A general description of the reasons for each promotion,
47 demotion, transfer, suspension, separation, or other change in position
48 classification with that community college.
- 49 (11) ~~Date and type of each dismissal, suspension, or demotion for disciplinary~~
50 ~~reasons taken by the community college.~~ If the disciplinary action was a
51 dismissal, a copy of the written notice of the final decision of the board of

1 trustees setting forth the specific acts or omissions that are the basis of the
2 dismissal.

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

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

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

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

9 (1) Name.

10 (2) Age.

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

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

15 (5) Current position.

16 (6) Title.

17 (7) Current salary.

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

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

22 ~~Date and general description of the reasons for each promotion with that area~~
23 ~~authority. A general description of the reasons for each promotion,~~
24 ~~demotion, transfer, suspension, separation, or other change in position~~
25 ~~classification with that area authority.~~

26 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~
27 ~~reasons taken by the area authority. If the disciplinary action was a~~
28 ~~dismissal, a copy of the written notice of the final decision of the area~~
29 ~~authority setting forth the specific acts or omissions that are the basis of the~~
30 ~~dismissal.~~

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

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

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

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

37 (1) Name.

38 (2) Age.

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

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

43 (5) Current position.

44 (6) Title.

45 (7) Current salary.

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

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

49 ~~(10) Date and general description of the reasons for each promotion with that~~
50 ~~county. A general description of the reasons for each promotion, demotion,~~

1 transfer, suspension, separation, or other change in position classification
 2 with that county.

3 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~
 4 ~~reasons taken by the county.~~ If the disciplinary action was a dismissal, a
 5 copy of the written notice of the final decision of the county setting forth the
 6 specific acts or omissions that are the basis of the dismissal.

7 (11) The performance of the employee, to the extent that the county has
 8 performance records in its possession.

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

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

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

13 (1) Name.

14 (2) Age.

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

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

19 (5) Current position.

20 (6) Title.

21 (7) Current salary.

22 (8) Date and amount of each increase or decrease in salary with that
 23 municipality.

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

26 ~~(10) Date and general description of the reasons for each promotion with that~~
 27 ~~municipality.~~ A general description of the reasons for each promotion,
 28 demotion, transfer, suspension, separation, or other change in position
 29 classification with that municipality.

30 ~~(11) Date and type of each dismissal, suspension, or demotion for disciplinary~~
 31 ~~reasons taken by the municipality.~~ If the disciplinary action was a dismissal,
 32 a copy of the written notice of the final decision of the municipality setting
 33 forth the specific acts or omissions that are the basis of the dismissal.

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

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

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

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

40 (1) Name.

41 (2) Age.

42 (3) Date of original employment or appointment to the 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 authority has the
 45 written 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 authority.

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

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

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

13 **"§ 143-318.16B. Assessments and awards of attorneys' fees.**

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

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

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

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

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

45 **SECTION 9.** This act becomes effective December 1, 2011.