

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 127
Workforce and Economic Development Committee Substitute Adopted 4/29/15
House Committee Substitute Favorable 8/19/15

Short Title: Personal Services Contracts/PED.

(Public)

Sponsors:

Referred to:

February 27, 2015

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACTS AND OTHER PERSONAL SERVICES CONTRACTS PURCHASED BY EXECUTIVE BRANCH AGENCIES BE SUBJECT TO THE SAME REQUIREMENTS AND PROCEDURES AS CONTRACTS FOR OTHER SERVICES; TO REQUIRE STATE AGENCIES TO OBTAIN THE SERVICES OF TEMPORARY EMPLOYEES THROUGH THE TEMPORARY SOLUTIONS PROGRAM OPERATED BY THE OFFICE OF STATE HUMAN RESOURCES; AND TO PROVIDE THAT INFORMATION TECHNOLOGY PERSONAL SERVICES CONTRACTS CAN ONLY BE OBTAINED UPON WRITTEN APPROVAL FROM THE OFFICE OF INFORMATION TECHNOLOGY SERVICES AND THE OFFICE OF STATE BUDGET AND MANAGEMENT.

The General Assembly of North Carolina enacts:

SECTION 1. Article 3 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-48.6. Personal services contracts subject to Article.

(a) Requirement. – Notwithstanding any other provision of law, personal services contracts for executive branch agencies shall be subject to the same requirements and procedures as service contracts.

(b) Personal Services Contract Defined. – For purposes of this section, the term "personal services contract" means a contract for services provided by a professional individual as an independent contractor on a temporary or occasional basis, but does not include, and nothing in this Article shall apply to, the engagement of private attorneys by the Department of Justice, the Governor, State agencies or institutions, or to engagement by them of experts or expert witnesses who are to be involved in the planning, prosecution, or defense of any litigation.

(c) Rules Required. – The Department of Administration shall adopt rules consistent with this section."

SECTION 2. Part 4 of Article 3D of Chapter 147 of the General Statutes is amended by adding a new section to read:

"§ 147-33.105. Personal services contracts subject to Article.

(a) Requirement. – Notwithstanding any other provision of law, information technology personal services contracts for executive branch agencies shall be subject to the same requirements and procedures as information technology service contracts, except as provided in this section.



1 (b) Certain Approvals Required. – Notwithstanding any provision of law to the
2 contrary, no information technology personal services contract, nor any contract that provides
3 personnel to perform information technology functions regardless of the cost of the contract,
4 may be established or renewed without written approval from the Office of Information
5 Technology Services and the Office of State Budget and Management. To facilitate compliance
6 with this requirement, the Office of Information Technology Services shall develop and
7 document the following:

8 (1) Standards for determining whether it is more appropriate for an agency to
9 hire an employee or use the services of a vendor.

10 (2) A process to monitor all State agency information technology personal
11 services contracts, as well as any other State contracts providing personnel to
12 perform information technology functions.

13 (3) A process for obtaining approval of contractor positions.

14 (c) Creation of State Positions in Certain Cases. – The Office of Information
15 Technology Services shall review current information technology personal services contracts
16 on an ongoing basis and determine if each contractor is performing a function that could more
17 appropriately be performed by a State employee. Where the determination is made that a State
18 employee should be performing the function, the Office of Information Technology Services
19 shall work with the impacted agency and the Office of State Personnel to identify or create the
20 position.

21 (d) Compliance Audits Required. – The Office of Information Technology Services
22 shall conduct periodic audits of State agencies that are subject to this Article to determine the
23 degree to which those agencies are complying with the rules and procedures that govern
24 information technology personal services contracts.

25 (e) Reporting Required. – The Office of Information Technology Services shall report
26 biennially to the Joint Legislative Oversight Committee on Information Technology and the
27 Fiscal Research Division on all of the following:

28 (1) Its progress toward standardizing information technology personal services
29 contracts.

30 (2) The number of information technology service contractors in each State
31 agency, the cost for each, and the comparable cost, including benefits, of a
32 State employee serving in that capacity rather than a contractor.

33 (3) The results of the compliance audits conducted pursuant to subsection (d) of
34 this section.

35 (f) Information Technology Personal Services Contract Defined. – For purposes of this
36 section, the term "personal services contract" means a contract for services provided by a
37 professional individual as an independent contractor on a temporary or occasional basis.

38 (g) Rules Required. – The Office of Information Technology Services shall adopt rules
39 consistent with this section."

40 **SECTION 3.** Personal services contracts and information technology personal
41 services contracts in effect on the effective date of this act shall be allowed to expire in
42 accordance with the terms of the contract. A personal services contract or information
43 technology personal services contract entered into on or after the effective date of this act shall
44 comply with the requirements of G.S. 143-48.6 or G.S. 147-33.105, as applicable.

45 **SECTION 4.** G.S. 143-64.70 is repealed. The Office of State Budget and
46 Management shall notify State agencies of the repeal of G.S. 143-64.70 and about the new
47 requirements imposed by this act.

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

50 **"§ 126-6.3. Temporary employment needs of State agencies shall be met through the**
51 **Temporary Solutions Program.**

1 (a) Use of Temporary Solutions Required. – Notwithstanding G.S. 126-5 or any other
2 provision of law, all State agencies that utilize temporary employees to perform work that is not
3 information technology-related shall employ them through the Temporary Solutions Program
4 administered by the Office of State Human Resources. The Director of the Office of State
5 Human Resources may create exceptions to this requirement when doing so would be in the
6 best interests of the State in the sole discretion of the Director. An exception shall be invalid
7 unless it is in writing.

8 (b) Compliance Monitoring. – The Office of State Human Resources shall monitor the
9 employment of temporary employees by agencies subject to this section and shall report
10 biannually to the Joint Legislative Commission on Governmental Operations and to the Fiscal
11 Research Division on agency compliance with this section and policies and rules adopted
12 pursuant to it.

13 (c) State Agency Defined. – A unit of the executive branch of State government, such
14 as a department, an institution, a division, a commission, a board, or a council, regardless of
15 whether or not the agency is part of the Council of State."

16 **SECTION 6.** G.S. 126-4 is amended by adding a new subdivision to read:

17 **"§ 126-4. Powers and duties of State Human Resources Commission.**

18 Subject to the approval of the Governor, the State Human Resources Commission shall
19 establish policies and rules governing each of the following:

20 ...

21 (19) The implementation of G.S. 126-6.3 in a manner that is consistent across all
22 affected State agencies."

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