

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023**

**HOUSE BILL 223
RATIFIED BILL**

AN ACT MAKING VARIOUS CHANGES TO THE STATE HUMAN RESOURCES ACT
AND RELATED LAW.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 126-14.3 reads as rewritten:

"§ 126-14.3. Open and fair competition.

The State Human Resources Commission shall adopt rules or policies to:

...

- (3) Require that a closing date shall be posted for each job opening, unless an exception for critical classifications has been approved by the State Human Resources ~~Commission~~Commission or as a special exception through the Office of State Human Resources.

....

SECTION 2. G.S. 126-24 reads as rewritten:

"§ 126-24. Confidential information in personnel files; access to such information.

All other information contained in a personnel file is confidential and shall not be open for inspection and examination except to the following persons:

- (1) The employee, applicant for employment, former employee, or his properly authorized agent, who may examine his own personnel file in its entirety except for (i) letters of reference solicited prior to employment, or (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to a patient. An employee's medical record may be disclosed to a licensed physician designated in writing by the ~~employee;employee.~~
- (2) The supervisor of the ~~employee;employee.~~
- (2a) A potential State or local government supervisor, during the interview process, only with regard to performance management ~~documents;documents~~ or to prevent application fraud.
- (3) Members of the General Assembly who may inspect and examine personnel records under the authority of ~~G.S. 120-19;G.S. 120-19.~~
- (4) A party by authority of a proper court order may inspect and examine a particular confidential portion of a State employee's personnel ~~file;andfile.~~
- (5) An official of an agency of the federal government, State government or any political subdivision thereof. Such an official may inspect any personnel records when such inspection is deemed by the department head of the employee whose record is to be inspected or, in the case of an applicant for employment or a former employee, by the department head of the agency in which the record is maintained as necessary and essential to the pursuance of a proper function of said agency; provided, however, that such information shall not be divulged for purposes of assisting in a criminal prosecution, nor for purposes of assisting in a tax investigation.



Notwithstanding any other provision of this Chapter, any department head may, in his discretion, inform any person or corporation of any promotion, demotion, suspension, reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant, employee or former employee employed by or assigned to his department or whose personnel file is maintained in his department and the reasons therefor and may allow the personnel file of such person or any portion thereof to be inspected and examined by any person or corporation when such department head shall determine that the release of such information or the inspection and examination of such file or portion thereof is essential to maintaining the integrity of such department or to maintaining the level or quality of services provided by such department; provided that prior to releasing such information or making such file or portion thereof available as provided herein, such department head shall prepare a memorandum setting forth the circumstances which the department head deems to require such disclosure and the information to be disclosed. The memorandum shall be retained in the files of said department head and shall be a public record."

SECTION 3. G.S. 126-10 reads as rewritten:

"§ 126-10. Personnel services to local governmental units.

(a) The State Human Resources Commission may make the services and facilities of the Office of State Human Resources available upon request to the political subdivisions of the State. The State Human Resources Commission may establish reasonable charges for the service and facilities so provided, and all funds so derived shall be deposited in the State treasury to the credit of the general fund.

(b) Notwithstanding G.S. 126-22, 126-24, 153A-98, and 160A-168, when a local entity indicates that it will permanently appoint a person who does not meet the class specification's minimum qualifications for a position subject to the State Human Resources Act, except for trainee and work-against appointments, the Office of State Human Resources may contact any relevant members of the board supervising that local entity, the county manager and commissioners, and the Department of Health and Human Services. The message may identify the particular qualifications that the proposed appointee would need to meet to have the minimum qualifications of the class specification.

(c) Notwithstanding G.S. 126-22, 126-24, 153A-98, and 160A-168, when a local entity requests that the Office of State Human Resources make the final determination as to whether the employee or applicant meets the minimum qualifications, the Office of State Human Resources may share the relevant portions of the personnel file of a specific employee or applicant with the Deputy Director of the Public Health or Social Services Division of the Department of Health and Human Services, or similar State departmental staff, to assist in determining qualification status."

SECTION 5. G.S. 96-29 reads as rewritten:

"§ 96-29. Openings listed by State agencies.

Every State agency shall list with the Division of Employment Security every job opening occurring within the agency which opening the agency wishes filled and which will not be filled solely by promotion or transfer from within the existing State government work force. The listing shall include a brief description of the duties and salary range and shall be filed with the Division within 30 days after the occurrence of the opening. ~~The State agency may not fill the job opening for at least 21 days after the listing has been filed with the Division.~~ The listing agency shall report to the Division the filling of any listed opening within 15 days after the opening has been filled.

~~The Division may act to waive the 21-day listing period for job openings in job classifications declared to be in short supply by the State Human Resources Commission, upon the request of a State agency, if the 21-day listing requirement for these classifications hinders the agency in providing essential services."~~

SECTION 6. G.S. 126-4 reads as rewritten:

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

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

- (1) Position classification plans which shall provide for the classification and reclassification of all positions subject to this Chapter according to the duties and responsibilities of the positions.
- (2) Compensation plans which shall provide for minimum, maximum, and intermediate rates of pay for all employees subject to the provisions of this Chapter.
- (3) For each class of positions, reasonable qualifications as to education, experience, specialized training, licenses, certifications, and other job-related requirements pertinent to the work to be performed. Classifications, class qualifications, and classification specifications may be added, revised, and deleted by the State Human Resources Commission, subject to the approval of the Governor, or by the Director of the Office of State Human Resources based on accepted labor market practices. All changes to classifications, qualifications, and specifications by the Director of the Office of State Human Resources shall be consistent with the classification plan structure approved by the State Human Resources Commission and shall be reported to the State Human Resources Commission at its next meeting that is more than five business days from the date of the change.

...."

SECTION 7. The State Human Resources Commission shall adopt temporary rules, followed by permanent rules, concerning the hiring and compensation of trainees for local government positions that are subject to the State Human Resources Act. The Commission shall submit the rules and notice of public hearing to the Codifier of Rules no later than 60 days from the effective date of this act.

SECTION 8. G.S. 126-34.02(b)(4) reads as rewritten:

- "(4) Veteran's and National Guard preference. – An applicant for State employment or a State employee may allege that he or she was denied veteran's preference or National Guard preference in violation of the law."

SECTION 9. G.S. 126-30(a) reads as rewritten:

"(a) Any employee who knowingly and willfully discloses false or misleading information, or conceals dishonorable military service; or conceals prior employment history or other requested information, either of which are significantly related to job responsibilities on an application for State employment or any document attached to or supplementing an application may be subjected to disciplinary action up to and including immediate dismissal from employment. Dismissal shall be mandatory where the applicant discloses false or misleading information in order to meet position qualifications. Application forms for State employment shall include a statement informing applicants of the consequences of such fraudulent disclosure or lack of disclosure. This statement shall also appear on any screen that allows an applicant to attach materials to, or supplement, a State application."

SECTION 10. G.S. 126-6.3 reads as rewritten:

"§ 126-6.3. Temporary employment needs of Cabinet and Council of State agencies; use of the Temporary Solutions Program.

...

(a2) Prohibition. – The OSHR shall prohibit from acquiring new temporary employees any agency or division, based on individual budget code, having an invoice owed to the OSHR that is over 90 days overdue and a total overdue invoice amount exceeding two hundred thousand dollars ~~(\$200,000) for any number of days.~~ (\$200,000). When an agency or division, based on individual budget code, is restricted from acquiring a new temporary employee under this

subsection, the agency or division shall not be allowed to acquire new temporary employees through the Temporary Solutions Program until the agency or division has paid all ~~overdue invoices~~ invoices that are over 90 days overdue. The provisions of this subsection do not apply to the North Carolina National Guard.

(a3) Exceptions. – The following exceptions apply:

- (1) The Director of the OSHR may create exceptions to the requirements of subsection (a) of this section only when the following conditions are met:
 - a. The Temporary Solutions Program cannot meet the agency's employment needs for a class of temporary job assignments.
 - b. Failure to recruit for the class of temporary job assignments will cause severe harm to the agency's ability to provide services to the public.
- (2) A temporary employee who is a full-time student, a retired employee, an inmate on a work-release program, an intern, or an extern is exempt from the requirements of subsection (a1) of this section.
- (3) The Director of the OSHR may create exceptions to the requirements of subsection (a1) of this section only when all of the following conditions are met:
 - a. The exception is in the best interests of the State because removing the employee from the job assignment will cause severe harm to the agency's ability to provide vital services to the public.
 - b. The exception will not result in extending the 11-month maximum length of temporary employment beyond 22 months from the employee's initial hire date.
- (4) The Director of the OSHR may create exceptions to the requirements of subsection (a2) of this section only when failure to acquire new temporary employees will cause severe harm to the agency's ability to provide vital services to the public.

All exceptions shall be in the sole discretion of the Director of the OSHR except that the North Carolina National Guard is hereby granted preferred status for exceptions which shall not be denied by the Director. All exceptions shall include a justification of why the exception is necessary. An exception is invalid unless it is submitted in writing and on file in the Temporary Solutions Program Office. To the extent possible, the Director of the OSHR or the Director's designee shall advise agencies of alternative job classification options prior to approval of exceptions to subsection (a1) of this section.

...."

SECTION 11.(a) Pilot Program for Department of Health and Human Services to Permanently Hire Certain Temporary Employees Under Specific Conditions. The North Carolina Department of Health and Human Services (Department) may directly hire temporary employees into vacant positions so long as all of the following conditions are met: (i) the position to which the temporary employee would be appointed is vacant; (ii) the temporary employee must have been working, for at least six months not including any mandatory breaks under G.S. 126-6.3, in a role that is substantially equivalent to the appointed position with satisfactory performance; (iii) the temporary employee must have been hired through the Temporary Solutions Program of the North Carolina Office of State Human Resources (OSHR); and (iv) the annual salary for the employee appointed to the position must be eighty thousand dollars (\$80,000) or less. Except as otherwise provided in this section, the hiring shall be exempt from Chapter 126 of the General Statutes, including any procedural or substantive requirements such as publicly posting the position, requiring an application, holding an interview or new reference checks, selecting the applicants from the pool of the most qualified persons, and following the priorities for certain types of applicants under State law. The hiring shall not be exempt from G.S. 126-14, G.S. 126-14.1, G.S. 126-14.5, and Articles 6 and 7 of Chapter 126 of the General

Statutes. The exemption from Chapter 126 of the General Statutes for the hiring process shall not affect whether the position is subject to Chapter 126 of the General Statutes once the employee is hired.

SECTION 11.(b) This section is effective when it becomes law and expires 180 calendar days from the date of enactment. This section continues to apply to any hiring where the Department issues an offer letter, while this section is in effect, that is contingent upon successful completion of any pre-requisite condition, such as a background check, reference check, or drug test, that would otherwise be required of a job candidate for the appointed position, even if the hiring occurs after this section otherwise expires.

SECTION 11.(c) The Department shall report to OSHR on the number and type of positions filled under this temporary authority no later than July 1, 2025.

SECTION 12. Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 20th day of June, 2024.

s/ Phil Berger
President Pro Tempore of the Senate

s/ Tim Moore
Speaker of the House of Representatives

Roy Cooper
Governor

Approved _____m. this _____ day of _____, 2024