

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 1270

Short Title: Discrimination Appeal Process.

(Public)

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Sponsors: Representatives S. Thompson; Blue, Fitch, and Easterling.

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Referred to: Public Employees.

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April 12, 1989

A BILL TO BE ENTITLED

AN ACT TO PERMIT NONPERMANENT AND EXEMPT STATE EMPLOYEES  
TO HAVE THE BENEFIT OF STATUTES PREVENTING RETALIATION FOR  
PROTESTING EQUAL EMPLOYMENT VIOLATIONS, AND CONCERNING  
UNLAWFUL EMPLOYMENT PRACTICES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 126-39 reads as rewritten:

**"§ 126-39. State employee defined.**

For the purposes of this Article, except for positions subject to competitive service and except for appeals brought under G.S. ~~126-16 and 126-25~~ 126-16, 126-17, 126-25, and 126-36, the terms 'permanent State employee,' 'permanent employee,' 'State employee' or 'former State employee' as used in this Article shall mean a ~~person~~ person:

(1) In a grade 60 or lower position who has been continuously employed by the State of North Carolina for the immediate 12 preceding months;

(2) In a grade 61 to grade 65 position who has been continuously employed by the State of North Carolina for the immediate 36 preceding months;

(3) In a grade 66 to grade 70 position who has been continuously employed by the State of North Carolina for the immediate 48 preceding months; or

(4) In a grade 71 or higher position who has been continuously employed by the State of North Carolina for the immediate 60 preceding months

at the time of the act, grievance, or employment practice complained of."

Sec. 2. G.S. 126-5(c) reads as rewritten:

1       "(c) Except as to the policies, rules, and plans established by the Commission  
2 pursuant to G.S. 126-4(1), 126-4(2), 126-4(3), 126-4(4), 126-4(5), 126-4(6), and 126-7,  
3 and except as to the provisions of Articles 6 and 7 of this Chapter and G.S. 126-36, the  
4 provisions of this Chapter shall not apply to:

- 5           (1) An employee of the State of North Carolina who:
  - 6               a. Is in a grade 60 or lower position and has not been continuously  
7               employed by the State of North Carolina for the immediate 12  
8               preceding months;
  - 9               b. Is in a grade 61 to grade 65 position and has not been  
10              continuously employed by the State of North Carolina for the  
11              immediate 36 preceding months;
  - 12             c. Is in a grade 66 to grade 70 position and has not been  
13              continuously employed by the State of North Carolina for the  
14              immediate 48 preceding months; or
  - 15             d. Is in a grade 71 or higher position and has not been  
16              continuously employed by the State of North Carolina for the  
17              immediate 60 preceding months.
- 18           (2) One confidential assistant and two confidential secretaries for each  
19           elected or appointed department head and one confidential secretary  
20           for each chief deputy or chief administrative assistant.
- 21           (3) Employees in policymaking positions designated as exempt pursuant  
22           to G.S. 126-5(d).
- 23           (4) The chief deputy or chief administrative assistant to the head of each  
24           State department who is designated either by statute or by the  
25           department head to act for and perform all of the duties of such  
26           department head during his absence or incapacity."

27       Sec. 3. G.S. 126-5(c1) reads as rewritten:

28       "(c1) Except as to the provisions of Articles 6 and 7 of this Chapter and G.S. 126-  
29 36, the provisions of this Chapter shall not apply to:

- 30           (1) Constitutional officers of the State.
- 31           (2) Officers and employees of the Judicial Department.
- 32           (3) Officers and employees of the General Assembly.
- 33           (4) Members of boards, committees, commissions, councils, and advisory  
34           councils compensated on a per diem basis.
- 35           (5) Officials or employees whose salaries are fixed by the General  
36           Assembly, or by the Governor, or by the Governor and Council of  
37           State, or by the Governor subject to the approval of the Council of  
38           State.
- 39           (6) Employees of the Office of the Governor that the Governor, at any  
40           time, in his discretion, exempts from the application of the provisions  
41           of this Chapter by means of a letter to the State Personnel Director  
42           designating these employees.
- 43           (7) Employees of the Office of the Lieutenant Governor, that the  
44           Lieutenant Governor, at any time, in his discretion, exempts from the

- 1 application of the provisions of this Chapter by means of a letter to the  
2 State Personnel Director designating these employees.
- 3 (8) Instructional and research staff, physicians, and dentists of The  
4 University of North Carolina.
- 5 (9) Employees whose salaries are fixed under the authority vested in the  
6 Board of Governors of The University of North Carolina by the  
7 provisions of G.S. 116-11(4), ~~116-1(5)~~ 116-11(5), and 116-14.
- 8 (10) Employees of community colleges whose salaries are fixed in  
9 accordance with the provisions of G.S. 115D-5 and G.S. 115D- 20.
- 10 (11) North Carolina School of Science and Mathematics' employees whose  
11 salaries are fixed in accordance with the provisions of G.S. 116-  
12 235(c)(1) and G.S. 116-235(c)(2).
- 13 (12) Employees of the North Carolina Low-Level Radioactive Waste  
14 Management Authority whose salaries are fixed pursuant to G.S.  
15 104G-5(g)."
- 16 Sec. 4. This act is effective upon ratification.