

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 971

Short Title: State Emp. Political Activity.

(Public)

Sponsors: Representative Hayes.

Referred to: Public Employees.

April 12, 1995

A BILL TO BE ENTITLED

1 AN ACT PROTECTING STATE EMPLOYEES FROM POLITICAL PRESSURE OR
2 COERCION BY LIMITING TO FIFTY DOLLARS THE MAXIMUM AMOUNT
3 THAT A STATE EMPLOYEE MAY CONTRIBUTE TO THE ELECTION
4 CAMPAIGN OF A PERSON RUNNING FOR STATE ELECTIVE OFFICE, BY
5 LIMITING TO FIVE THE MAXIMUM NUMBER OF CANDIDATES FOR STATE
6 ELECTIVE OFFICE TO WHICH A STATE EMPLOYEE MAY CONTRIBUTE,
7 AND BY AMENDING THE STATE PERSONNEL ACT TO BROADEN ITS
8 COVERAGE OF STATE EMPLOYEES WITH REGARD TO POLITICAL
9 ACTIVITIES.
10

11 The General Assembly of North Carolina enacts:

12 Section 1. G.S. 126-5 is amended by adding a new subsection to read:

13 "(c6) Notwithstanding any other provision of this Chapter, Article 5 of this Chapter
14 shall apply to all State employees, except as otherwise provided by that Article."

15 Sec. 2. G.S. 126-13 reads as rewritten:

16 "**§ 126-13. Appropriate political activity of State employees ~~defined.~~ defined; limits**
17 **on campaign contributions.**

18 (a) As an individual, each State employee retains all the rights and obligations of
19 citizenship provided in the Constitution and laws of the State of North Carolina and the
20 Constitution and laws of the United States of America; however, no State ~~employee~~

1 ~~subject to the Personnel Act~~ employee, probationary State employee, or temporary State
2 employee shall:

- 3 (1) Take any active part in managing a campaign, or campaign for political
4 office or otherwise engage in political activity while on duty or within
5 any period of time during which ~~he~~ the employee is expected to perform
6 services for which he receives compensation from the ~~State~~; State; or
7 (2) Otherwise use the authority of ~~his~~ the employee's position, or utilize
8 State funds, supplies or vehicles to secure support for or oppose any
9 candidate, party, or issue in an election involving candidates for office
10 or party nominations, or affect the results thereof.

11 (a1) It is the intent of this subsection to protect State employees from political
12 pressure or coercion by restricting the political contributions of State employees, as
13 follows:

- 14 (1) No State employee may contribute in one calendar year more than fifty
15 dollars (\$50.00) to the political campaign of any person running for
16 State elective office.
17 (2) No State employee may contribute in one calendar year to the political
18 campaigns of more than five persons running for State elective office.

19 These limitations on State employee campaign contributions are not intended to
20 unduly infringe on the constitutional rights of State employees under the Constitution of
21 this State or of the United States. The General Assembly finds that, to the extent that
22 State employees receive certain benefits and undertake certain duties, requiring that State
23 employees limit their financial support of candidates for State elective office serves
24 important State interests of ensuring that State employees are protected from overbearing
25 or coercive solicitations of political contributions and attracting qualified applicants by
26 providing a State workplace environment free from political pressure or undue political
27 influence.

28 (b) No head of any State department, agency, or institution or other State
29 employee exercising supervisory authority shall make, issue, or enforce any rule or policy
30 the effect of which is to interfere with the right of any State employee as an individual to
31 engage in political activity while not on duty or at times during which he is not
32 performing services for which he receives compensation from the State. A State
33 employee who is or may be expected to perform his duties on a twenty-four hour per day
34 basis shall not be prevented from engaging in political activity except during regularly
35 scheduled working hours or at other times when he is actually performing the duties of
36 his office. The willful violation of this subdivision shall be a Class 1 misdemeanor."

37 Sec. 3. G.S. 126-14 reads as rewritten:

38 **"§ 126-14. Promise or threat to obtain political contribution or support.**

39 (a) It is unlawful for a State employee or a person elected or appointed to State
40 office, other than elective office or office on a board, commission, committee, or council whose
41 function is advisory only, whether or not subject to the State Personnel Act, to coerce:

- 42 (1) a State ~~employee subject to the Personnel Act~~, employee,
43 (2) a probationary State employee,

1 (3) a temporary State employee, or
2 (4) an applicant for a ~~position subject to the Personnel Act~~ State
3 employment
4 to support or contribute to a political candidate, political committee as defined in G.S.
5 163-278.6, or political party or to change the party designation of his or her voter
6 registration by threatening that change in employment status or discipline or preferential
7 personnel treatment will occur with regard to a person listed in subdivisions (1) through
8 (4).

9 (b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

10 (c) A State ~~employee subject to the Personnel Act, employee,~~ probationary State
11 employee, or temporary State employee who without probable cause falsely accuses a
12 State employee or a person appointed to State office of violating this section shall be
13 subject to discipline ~~or change in employment status in accordance with the provisions of G.S.~~
14 ~~126-35, 126-37, and 126-38 up to, and including,~~ dismissal from State employment, and
15 may, as otherwise provided by law, be subject to criminal penalties for perjury or civil
16 liability for libel, slander, or malicious prosecution."

17 Sec. 4. G.S. 126-14.1 reads as rewritten:

18 **"§ 126-14.1. Threat to obtain political contribution or support.**

19 (a) It is unlawful for any person to coerce:

20 (1) a State ~~employee subject to the Personnel Act, employee,~~
21 (2) a probationary State employee,
22 (3) a temporary State employee, or
23 (4) an applicant for a ~~position subject to the Personnel Act~~ State
24 employment
25 to support or contribute to a political candidate, political committee as defined in G.S.
26 163-278.6, or political party or to change the party designation of his or her voter
27 registration by explicitly threatening that change in employment status or discipline or
28 preferential personnel treatment will occur with regard to any person listed in
29 subdivisions (1) through (3) of this subsection.

30 (b) Any person violating this section shall be guilty of a Class 2 misdemeanor.

31 (c) A State ~~employee subject to the Personnel Act, employee,~~ probationary State
32 employee, or temporary State employee, who without probable cause falsely accuses a
33 person of violating this section shall be subject to discipline ~~or change in employment status~~
34 ~~in accordance with the provisions of G.S. 126-35, 126-37, and 126-38 up to, and including,~~
35 dismissal from State employment and may, as otherwise provided by law, be subject to
36 criminal penalties for perjury or civil liability for libel, slander, or malicious
37 prosecution."

38 Sec. 5. G.S. 126-15.1 reads as rewritten:

39 **"§ 126-15.1. Probationary State employee defined. Definitions.**

40 As used in this Article, ~~'probationary State employee'~~ means a State employee who is
41 ~~exempt from the Personnel Act only because he has not been continuously employed by~~
42 ~~the State for the period required by G.S. 126-5(c).~~ Article:

- 1 (1) 'Elective office' means offices established by Articles II, III, or IV of the
2 Constitution of North Carolina.
- 3 (2) 'State employee' means any employee in State government employment,
4 including employees of the executive, judicial, or legislative branch,
5 except that the term shall not include:
- 6 a. Constitutional officers of the State, officers of the Judicial
7 Department, or officers of the General Assembly.
- 8 b. Employees exempt from coverage of the State Personnel Act
9 pursuant to G.S. 126-5(c)(2) or G.S. 126-5(c)(3).
- 10 c. Employees in policy-making positions designated as exempt
11 from the State Personnel Act pursuant to G.S. 126-5(d).
- 12 d. Employees of the Office of the Governor that the Governor, at
13 any time, in his or her discretion, exempts from the application of
14 this Chapter by means of a letter to the State Personnel Director
15 designating these employees.
- 16 e. Employees of the Office of the Lieutenant Governor that the
17 Lieutenant Governor, at any time, in his or her discretion,
18 exempts from the application of this Chapter by means of a letter
19 to the State Personnel Director designating these employees.
- 20 (3) 'Probationary State employee' means a State employee who is exempt
21 from the State Personnel Act only because the employee has not been
22 continuously employed by the State for the period required by G.S. 126-
23 5(c).
- 24 (4) 'Temporary State employee' means an employee of the executive
25 branch, whether or not exempt from the State Personnel Act, who is
26 serving in a temporary position.
- 27 (5) 'Applicant for State employment' means any person applying for a
28 position in State employment that:
- 29 a. Is subject to the State Personnel Act.
- 30 b. Is not exempt from the coverage of this Chapter under G.S. 126-
31 5(c)(2) or G.S. 126-5(c)(3)."

32 Sec. 6. This act becomes effective July 1, 1995.