GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

H HOUSE BILL 1182*

C1 T:41	1	N1'	(D-1.1:-)	
Short 110	ie:	Nonlicensed Local School Employees Under SPA.	(Public)	
Sponsors		Representatives Bell; Baddour, Barefoot, Bonner, Earle, Gibson, Hall, Hensley, Insko, Jeffus, Lucas, Luebke, Michaux, Miller, Oldham, Russell, Sherrill, Sutton, Tolson, Warner, Weiss, Womble, and Yongue.		
Referred	to:	State Personnel.		
		April 12, 2001		
		A BILL TO BE ENTITLED		
AN ACT PROVIDING NONLICENSED EMPLOYEES OF LOCAL SCHOOL				
BOARDS WITH COVERAGE UNDER THE STATE PERSONNEL ACT THAT				
IS SIMILAR TO THE COVERAGE OF OTHER LOCAL EMPLOYEES.				
The General Assembly of North Carolina enacts:				
SECTION 1. G.S. 126-5(a) is amended by adding a new subdivision to read:				
	"(4)	<u> </u>		
		require licensure by the Department of Public Instruction		
		have been continuously employed by the local board of e	ducation for	
		the immediate preceding 24 months."		
		CTION 2. G.S. 126-5(c2) reads as rewritten:		
"(c2)		e provisions of this Chapter shall not apply to:		
	(1)	Public school superintendents, principals, teachers, and	•	
		school employees.employees whose positions require licer	nsure by the	
		Department of Public Instruction.		
	(2)		35 (Regular	
		Session, 1986), c. 1014, s. 41.		
	(3)	Employees of community colleges whose salaries ar		
		accordance with the provisions of G.S. 115D-5 and G.S. 1		
		employees of the Community Colleges System Office wh		
		are fixed by the State Board of Community Colleges in	accordance	
		with the provisions of G.S. 115D-3."		
	SE	CTION 3. G.S. 126-11 is amended by adding a new subsection	n to read:	

"(b2) A local board of education may establish and maintain a personnel system for

all employees of the local school board subject to its jurisdiction, which system and any

substantial changes to the system shall be approved by the State Personnel Commission

as substantially equivalent to the standards established under this Chapter for employees of local departments of social services, local health departments, area mental health programs, and local emergency management programs. If approved by the State Personnel Commission, the local school employees covered shall be exempt from all provisions of this Chapter except Article 6."

SECTION 4. G.S. 126-37(b1) reads as rewritten:

"(b1) In appeals involving local government employees subject to this Chapter pursuant to G.S. 126-5(a)(2), G.S.126-5(a)(2) or G.S. 126-5(a)(4), except in appeals in which discrimination prohibited by Article 6 of this Chapter is found or in any case where a binding decision is required by applicable federal standards, the decision of the State Personnel Commission shall be advisory to the local appointing authority. The State Personnel Commission shall comply with all requirements of G.S. 150B-44 in making an advisory decision. The local appointing authority shall, within 90 days of receipt of the advisory decision of the State Personnel Commission, issue a written, final decision either accepting, rejecting, or modifying the decision of the State Personnel Commission. If the local appointing authority rejects or modifies the advisory decision, the local appointing authority must state the specific reasons why it did not adopt the advisory decision. Shall comply with all the requirements of G.S. 150B-36 in making its decision. A copy of the final decision shall be served on each party personally or by certified mail, and on each party's attorney of record."

SECTION 5. G.S. 150B-23(a) reads as rewritten:

- "(a) A contested case shall be commenced by filing a petition with the Office of Administrative Hearings and, except as provided in Article 3A of this Chapter, shall be conducted by that Office. The party who files the petition shall serve a copy of the petition on all other parties and, if the dispute concerns a license, the person who holds the license. A party who files a petition shall file a certificate of service together with the petition. A petition shall be signed by a party or a representative of the party and, if filed by a party other than an agency, shall state facts tending to establish that the agency named as the respondent has deprived the petitioner of property, has ordered the petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the petitioner's rights and that the agency:
 - (1) Exceeded its authority or jurisdiction;
 - (2) Acted erroneously;
 - (3) Failed to use proper procedure;
 - (4) Acted arbitrarily or capriciously; or
 - (5) Failed to act as required by law or rule.

The parties in a contested case shall be given an opportunity for a hearing without undue delay. Any person aggrieved may commence a contested case hereunder.

A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies <u>pursuant to G.S. 126-5(a)(2)</u> may commence a contested case under this Article in the same manner as any other petitioner. <u>A local employee whose case comes before the Office of Administrative Hearings under G.S. 126-5(a)(4) may appeal only as to personnel actions or issues listed in G.S. 126-34.1(a)(1). The case shall be conducted in the same manner as other</u>

- contested cases under this Article, except that the State Personnel Commission shall 1 enter final decisions only in cases in which it is found that the employee, applicant, or 2 former employee has been subjected to discrimination prohibited by Article 6 of 3 Chapter 126 of the General Statutes or in any case where a binding decision is required 4 by applicable federal standards. In these cases, the State Personnel Commission's 5 6 decision shall be binding on the local appointing authority. In all other cases, the final 7 decision shall be made by the applicable appointing authority." 8
 - **SECTION 6.** This act is effective when it becomes law.