# GENERAL ASSEMBLY OF NORTH CAROLINA SESSION 2001

### SENATE BILL 1053

Short Title:	Nonlicensed Local School Employees Under SPA.	(Public)
Sponsors:	Senators Carter; Cunningham, Garrou, Kinnaird, Miller Weinstein.	, Reeves, and
Referred to:	Rules and Operations of the Senate.	

# April 5, 2001

1		A BILL TO BE ENTITLED		
2	AN ACT PRO	OVIDING NONLICENSED EMPLOYEES OF LOCAL SCHOOL		
3	BOARDS V	VITH COVERAGE UNDER THE STATE PERSONNEL ACT THAT		
4	IS SIMILAF	TO THE COVERAGE OF OTHER LOCAL EMPLOYEES.		
5	The General As	sembly of North Carolina enacts:		
6	SEC	<b>FION 1.</b> G.S. 126-5(a) is amended by adding a new subdivision to read:		
7	" <u>(4)</u>	To all employees of local boards of education whose positions do not		
8		require licensure by the Department of Public Instruction and who		
9		have been continuously employed by the local board of education for		
10		the immediate preceding 24 months."		
11	SEC	<b>FION 2.</b> G.S. 126-5(c2) reads as rewritten:		
12	"(c2) The p	rovisions of this Chapter shall not apply to:		
13	(1)	Public school superintendents, principals, teachers, and other public		
14		school employees.employees whose positions require licensure by the		
15		Department of Public Instruction.		
16	(2)	Recodified as G.S. 126-5(c)(4) by Session Laws 1985 (Regular		
17		Session, 1986), c. 1014, s. 41.		
18	(3)	Employees of community colleges whose salaries are fixed in		
19		accordance with the provisions of G.S. 115D-5 and G.S. 115D-20, and		
20		employees of the Community Colleges System Office whose salaries		
21		are fixed by the State Board of Community Colleges in accordance		
22		with the provisions of G.S. 115D-3."		
23		<b>FION 3.</b> G.S. 126-11 is amended by adding a new subsection to read:		
24		al board of education may establish and maintain a personnel system for		
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27	as substantially equivalent to the standards established under this Chapter for employees			

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1 of local departments of social services, local health departments, area mental health 2 programs, and local emergency management programs. If approved by the State Personnel Commission, the local school employees covered shall be exempt from all 3 provisions of this Chapter except Article 6." 4 5 SECTION 4. G.S. 126-37(b1) reads as rewritten: "(b1) In appeals involving local government employees subject to this Chapter 6 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 7 8 which discrimination prohibited by Article 6 of this Chapter is found or in any case 9 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 10 11 State Personnel Commission shall comply with all requirements of G.S. 150B-44 in 12 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, 13 final decision either accepting, rejecting, or modifying the decision of the State 14 Personnel Commission. If the local appointing authority rejects or modifies the advisory 15 decision, the local appointing authority must state the specific reasons why it did not 16 adopt the advisory decision. shall comply with all the requirements of G.S. 150B-36 in 17 making its decision. A copy of the final decision shall be served on each party 18 19 personally or by certified mail, and on each party's attorney of record." 20 SECTION 5. G.S. 150B-23(a) reads as rewritten: 21 A contested case shall be commenced by filing a petition with the Office of "(a) 22 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 23 24 petition on all other parties and, if the dispute concerns a license, the person who holds 25 the license. A party who files a petition shall file a certificate of service together with 26 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 27 28 agency named as the respondent has deprived the petitioner of property, has ordered the 29 petitioner to pay a fine or civil penalty, or has otherwise substantially prejudiced the 30 petitioner's rights and that the agency: 31 Exceeded its authority or jurisdiction; (1)32 Acted erroneously; (2)33 Failed to use proper procedure; (3) 34 Acted arbitrarily or capriciously; or (4) 35 Failed to act as required by law or rule. (5) The parties in a contested case shall be given an opportunity for a hearing without 36 37 undue delay. Any person aggrieved may commence a contested case hereunder. 38 A local government employee, applicant for employment, or former employee to whom Chapter 126 of the General Statutes applies pursuant to G.S. 126-5(a)(2) may 39 commence a contested case under this Article in the same manner as any other 40 41 petitioner. 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 42 43 in G.S. 126-34.1(a)(1). The case shall be conducted in the same manner as other

44 contested cases under this Article, except that the State Personnel Commission shall

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