

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 584
Senate Information Technology Committee Substitute Adopted 6/20/07

Short Title: ITS/Employee Backg. Investigations/IT Board.

(Public)

Sponsors:

Referred to:

March 13, 2007

A BILL TO BE ENTITLED

1 AN ACT MAKING EMPLOYEES AND PROSPECTIVE EMPLOYEES OF THE
2 OFFICE OF INFORMATION TECHNOLOGY SERVICES SUBJECT TO
3 BACKGROUND INVESTIGATIONS; EXEMPTING FROM THE PUBLIC
4 RECORDS LAWS THE CRIMINAL HISTORIES OF AGENCY SECURITY
5 LIAISONS AND PERSONNEL IN THE OFFICE OF STATE AUDITOR, AND
6 MAKING CONFORMING CHANGES, AND TO CHANGE THE MEMBERSHIP
7 OF THE INFORMATION TECHNOLOGY ADVISORY BOARD.
8

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 147-33.77 is amended by adding a new subsection to
11 read:

12 "(g) The State Chief Information Officer may require background investigations
13 of any employee or prospective employee, including a criminal history record check,
14 which may include a search of the State and National Repositories of Criminal Histories
15 based on the person's fingerprints. A criminal history record check shall be conducted
16 by the State Bureau of Investigation upon receiving fingerprints and other information
17 provided by the employee or prospective employee. If the employee or prospective
18 employee has been a resident of the State for less than five years, the background report
19 shall include a review of criminal information from both the State and National
20 Repositories of Criminal Histories. The criminal background report shall be provided to
21 the State Chief Information Officer and is not a public record under Chapter 132 of the
22 General Statutes."

23 **SECTION 2.** G.S. 147-33.113(a)(4) reads as rewritten:

24 "(4) Designating an agency liaison in the information technology area to
25 coordinate with the State Chief Information Officer. The liaison shall
26 be subject to a criminal background report from the State Repository
27 of Criminal Histories, which shall be provided by the State Bureau of
28 Investigation upon its receiving fingerprints from the liaison. If the
29 liaison has been a resident of this State for less than five years, the

1 background report shall include a review of criminal information from
2 both the State and National Repositories of Criminal Histories. The
3 criminal background report shall be provided to the State Chief
4 Information Officer and the head of the agency. In addition, all
5 personnel in the Office of State Auditor who are responsible for
6 information technology security reviews pursuant to
7 G.S. 147-64.6(c)(18) shall be subject to a criminal background report
8 from the State Repository of Criminal Histories, which shall be
9 provided by the State Bureau of Investigation upon receiving
10 fingerprints from the personnel designated by the State Auditor. For
11 designated personnel who have been residents of this State for less
12 than five years, the background report shall include a review of
13 criminal information from both the State and National Repositories of
14 Criminal Histories. The criminal background reports shall be provided
15 to the State Auditor. Criminal histories provided pursuant to this
16 subdivision are not public records under Chapter 132 of the General
17 Statutes."

18 **SECTION 3.** Article 4 of Chapter 114 of the General Statutes is amended by
19 adding a new section to read:

20 **"§ 114-19.20. Criminal record checks for the Office of Information Technology**
21 **Services.**

22 (a) The Department of Justice may provide to the Office of Information
23 Technology Services from the State and National Repositories of Criminal Histories the
24 criminal history of any current or prospective employee, volunteer, or contractor of the
25 Office of Information Technology Services. The Office of Information Technology
26 Services shall provide to the Department of Justice, along with the request, the
27 fingerprints of the current or prospective employee, volunteer, or contractor, a form
28 signed by the current or prospective employee, volunteer, or contractor consenting to
29 the criminal record check and use of fingerprints and other identifying information
30 required by the State and National Repositories, and any additional information required
31 by the Department of Justice. The fingerprints of the current or prospective employee,
32 volunteer, or contractor shall be forwarded to the State Bureau of Investigation for a
33 search of the State's criminal history record file, and the State Bureau of Investigation
34 shall forward a set of fingerprints to the Federal Bureau of Investigation for a national
35 criminal history record check. The Office of Information Technology Services shall
36 keep all information obtained pursuant to this section confidential.

37 (b) The Department of Justice may charge a fee to offset the cost incurred by it to
38 conduct a criminal record check under this section. The fee shall not exceed the actual
39 cost of locating, editing, researching, and retrieving the information."

40 **SECTION 4.** G.S. 147-33.72G reads as rewritten:

41 **"§ 147-33.72G. Information Technology Advisory Board.**

42 (a) Creation; Membership. – The Information Technology Advisory Board is
43 established and shall be located within the Office of Information Technology Services
44 for organizational, budgetary, and administrative purposes. The Board shall consist of

1 ~~12-9~~ members, ~~four~~two appointed by the Governor, ~~four~~two appointed by the President
2 Pro Tempore of the Senate, and ~~four~~two appointed by the Speaker of the House of
3 ~~Representatives.~~Representatives, two appointed by the chair, and the State Controller ex
4 officio. All appointments shall be from among persons knowledgeable in the subject
5 area and having experience with State government or information technology
6 deployment within large organizations. Each member shall serve at the pleasure of the
7 officer who appointed the member. The Governor shall designate a chair from among
8 the membership.

9 (a1) Of the initial appointments, one person each appointed by the Governor, the
10 president Pro Tempore of the Senate, the Speaker of the House of Representatives and
11 the chair shall serve a term of one year beginning October 1, 2007, and one person
12 appointed by each shall serve a term of two years beginning October 1, 2007. All
13 succeeding appointments shall be for terms of two years. Members shall not serve for
14 more than two successive terms.

15 (a2) Vacancies shall be filled by the appointing authority for the unexpired portion
16 of the term in which they occur.

17 (a3) The members appointed by the Governor shall be heads of State agencies or
18 managers whose primary responsibilities do not include information technology.

19 (a4) The members appointed by the President Pro Tempore of the Senate and the
20 Speaker of the House of Representatives shall be persons with experience in the
21 deployment, use, maintenance, and replacement of information technology. Of the
22 members appointed by the President Pro Tempore of the Senate, one member shall be
23 from local government, and one member shall be from the private sector. Of the
24 members appointed by the Speaker of the House of Representatives, one member shall
25 be from primary or secondary education, and one member shall be from the private
26 sector.

27 (a5) The two members appointed by the chair shall be chief information officers
28 of State agencies or managers whose primary responsibilities include information
29 technology.

30 (b) Conflicts of Interest. – Members of the Advisory Board shall not serve on the
31 board of directors or other governing body of, be employed by, or receive any
32 remuneration of any kind from any information systems, computer hardware, computer
33 software, or telecommunications vendor of goods and services to the State of North
34 Carolina.

35 No member of the Advisory Board shall vote on an action affecting solely that
36 person's State agency.

37 (c) Powers and Duties. – The Board shall:

38 (1) Review and comment on the State Information Technology Plan
39 developed by the State Chief Information Officer under
40 G.S. 147-33.72B(b).

41 (2) Review and comment on the information technology plans of the
42 executive agencies prepared under G.S. 147-33.72B(c).

43 (3) Review and comment on the statewide technology initiatives
44 developed by the State Chief Information Officer.

1 (4) Advise the State Chief Information Officer on the development of
2 statewide information technology programs and services.

3 (d) Meetings. – The Information Technology Advisory Board shall adopt bylaws
4 containing rules governing its meeting procedures. The Board shall meet at least
5 quarterly. The Office of Information Technology Services shall provide administrative
6 staff and facilities for Advisory Board meetings. The expenses of the Board shall be
7 paid from receipts available to the Office of Information Technology Services as
8 requested by the Board. Advisory Board members shall receive per diem, subsistence,
9 and travel allowances as follows:

10 (1) Commission members who are officials or employees of the State or of
11 local government agencies, at the rate established in G.S. 138-6; and

12 (2) All other commission members, at the rate established in G.S. 138-5."

13 **SECTION 5.** The terms of office of the existing members of the Information
14 Technology Advisory Board expire September 30, 2007.

15 **SECTION 6.** This act is effective when it becomes law, except that Section
16 4 becomes effective October 1, 2007.