

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-189
HOUSE BILL 584**

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

The General Assembly of North Carolina enacts:

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

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

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

"(4) Designating an agency liaison in the information technology area to coordinate with the State Chief Information Officer. The liaison shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon its receiving fingerprints from the liaison. If the liaison has been a resident of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background report shall be provided to the State Chief Information Officer and the head of the agency. In addition, all personnel in the Office of State Auditor who are responsible for information technology security reviews pursuant to G.S. 147-64.6(c)(18) shall be subject to a criminal background report from the State Repository of Criminal Histories, which shall be provided by the State Bureau of Investigation upon receiving fingerprints from the personnel designated by the State Auditor. For designated personnel who have been residents of this State for less than five years, the background report shall include a review of criminal information from both the State and National Repositories of Criminal Histories. The criminal background reports shall be provided to the State Auditor. Criminal histories provided pursuant to this

subdivision are not public records under Chapter 132 of the General Statutes."

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

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

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

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

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

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

(a) Creation; Membership. – The Information Technology Advisory Board is established and shall be located within the Office of Information Technology Services for organizational, budgetary, and administrative purposes. The Board shall consist of ~~12-9~~ members, ~~four-two~~ appointed by the Governor, ~~four-two~~ appointed by the President Pro Tempore of the Senate, and ~~four-two~~ appointed by the Speaker of the House of Representatives. ~~Representatives, two appointed by the chair, and the State Controller ex officio. All appointments shall be from among persons knowledgeable in the subject area and having experience with State government or information technology deployment within large organizations. Each member shall serve at the pleasure of the officer who appointed the member. The Governor shall designate a chair from among the membership.~~

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

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

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

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

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

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

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

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

- (1) Review and comment on the State Information Technology Plan developed by the State Chief Information Officer under G.S. 147-33.72B(b).
- (2) Review and comment on the information technology plans of the executive agencies prepared under G.S. 147-33.72B(c).
- (3) Review and comment on the statewide technology initiatives developed by the State Chief Information Officer.
- (4) Advise the State Chief Information Officer on the development of statewide information technology programs and services.

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

- (1) Commission members who are officials or employees of the State or of local government agencies, at the rate established in G.S. 138-6; and
- (2) All other commission members, at the rate established in G.S. 138-5."

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

SECTION 5.1. If Senate Bill 878, 2007 Regular Session, becomes law, then Sections 1, 2, and 3 of this act are repealed so that they are not enacted twice.

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

In the General Assembly read three times and ratified this the 28th day of June, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 12:10 p.m. this 8th day of July, 2007