

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 223

Short Title: OSHR/Various SHRA Changes. (Public)

Sponsors: Representatives Cleveland and Riddell (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to: State Personnel, if favorable, Judiciary 1, if favorable, Rules, Calendar, and Operations of the House

March 1, 2023

1 A BILL TO BE ENTITLED  
2 AN ACT MAKING VARIOUS CHANGES TO THE STATE HUMAN RESOURCES ACT  
3 AND RELATED LAW.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 126-14.3 reads as rewritten:

6 "**§ 126-14.3. Open and fair competition.**

7 The State Human Resources Commission shall adopt rules or policies to:

8 ...

9 (3) Require that a closing date shall be posted for each job opening, unless an  
10 exception for critical classifications has been approved by the State Human  
11 Resources ~~Commission~~Commission or as a special exception through the  
12 Office of State Human Resources.

13 ...

14 (9) Allow an individual the option of having the individual's application  
15 considered for future job postings if the individual has been identified as a  
16 qualified applicant within the same or comparable classification."

17 **SECTION 2.** G.S. 126-24 reads as rewritten:

18 "**§ 126-24. Confidential information in personnel files; access to such information.**

19 All other information contained in a personnel file is confidential and shall not be open for  
20 inspection and examination except to the following persons:

21 (1) The employee, applicant for employment, former employee, or his properly  
22 authorized agent, who may examine his own personnel file in its entirety  
23 except for (i) letters of reference solicited prior to employment, or (ii)  
24 information concerning a medical disability, mental or physical, that a prudent  
25 physician would not divulge to a patient. An employee's medical record may  
26 be disclosed to a licensed physician designated in writing by the  
27 ~~employee;employee.~~

28 (2) The supervisor of the ~~employee;employee.~~

29 (2a) A potential State or local government supervisor, during the interview  
30 process, only with regard to performance management ~~documents;documents~~  
31 or to prevent application fraud.

32 (3) Members of the General Assembly who may inspect and examine personnel  
33 records under the authority of ~~G.S. 120-19;G.S. 120-19.~~



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- 1 (4) A party by authority of a proper court order may inspect and examine a  
2 particular confidential portion of a State employee's personnel ~~file; and~~ file.
- 3 (5) An official of an agency of the federal government, State government or any  
4 political subdivision thereof. Such an official may inspect any personnel  
5 records when such inspection is deemed by the department head of the  
6 employee whose record is to be inspected or, in the case of an applicant for  
7 employment or a former employee, by the department head of the agency in  
8 which the record is maintained as necessary and essential to the pursuance of  
9 a proper function of said agency; provided, however, that such information  
10 shall not be divulged for purposes of assisting in a criminal prosecution, nor  
11 for purposes of assisting in a tax investigation.

12 Notwithstanding any other provision of this Chapter, any department head may, in his  
13 discretion, inform any person or corporation of any promotion, demotion, suspension,  
14 reinstatement, transfer, separation, dismissal, employment or nonemployment of any applicant,  
15 employee or former employee employed by or assigned to his department or whose personnel  
16 file is maintained in his department and the reasons therefor and may allow the personnel file of  
17 such person or any portion thereof to be inspected and examined by any person or corporation  
18 when such department head shall determine that the release of such information or the inspection  
19 and examination of such file or portion thereof is essential to maintaining the integrity of such  
20 department or to maintaining the level or quality of services provided by such department;  
21 provided that prior to releasing such information or making such file or portion thereof available  
22 as provided herein, such department head shall prepare a memorandum setting forth the  
23 circumstances which the department head deems to require such disclosure and the information  
24 to be disclosed. The memorandum shall be retained in the files of said department head and shall  
25 be a public record."

26 **SECTION 3.** G.S. 126-10 reads as rewritten:

27 "**§ 126-10. Personnel services to local governmental units.**

28 (a) The State Human Resources Commission may make the services and facilities of the  
29 Office of State Human Resources available upon request to the political subdivisions of the State.  
30 The State Human Resources Commission may establish reasonable charges for the service and  
31 facilities so provided, and all funds so derived shall be deposited in the State treasury to the credit  
32 of the general fund.

33 (b) Notwithstanding G.S. 126-22, 126-24, 153A-98, and 160A-168, when a local entity  
34 indicates that it will permanently appoint a person who does not meet the class specification's  
35 minimum qualifications for a position subject to the State Human Resources Act (except for  
36 trainee and work-against appointments), the Office of State Human Resources may contact any  
37 relevant members of the board supervising that local entity, the county manager and  
38 commissioners, and the Department of Health and Human Services. The message may identify  
39 the particular qualifications that the proposed appointee would need to meet to have the minimum  
40 qualifications of the class specification.

41 (c) Notwithstanding G.S. 126-22, 126-24, 153A-98, and 160A-168, when a local entity  
42 requests that the Office of State Human Resources make the final determination as to whether  
43 the employee or applicant meets the minimum qualifications, the Office of State Human  
44 Resources may share the relevant portions of the personnel file of a specific employee or  
45 applicant with the Deputy Director of the Public Health or Social Services Division of the  
46 Department of Health and Human Services (or similar State departmental staff) to assist in  
47 determining qualification status."

48 **SECTION 4.(a)** G.S. 95-47.6 reads as rewritten:

49 "**§ 95-47.6. Prohibited acts.**

50 A private personnel service shall not engage in any of the following activities or conduct:

51 ...

1           (13) Impose or attempt to collect any fee that is prohibited by G.S. 126-18 from  
2           the State of North Carolina, or any of its agencies, for aiding or assisting any  
3           person in obtaining employment with the State of North Carolina."

4           **SECTION 4.(b)** G.S. 126-18 reads as rewritten:

5       "**§ 126-18. Compensation for assisting person in obtaining State employment barred;**  
6       **exception.**

7           It shall be unlawful for any person, firm or corporation to collect, accept or receive any  
8       compensation, consideration or thing of value for obtaining on behalf of any other person, or  
9       aiding or assisting any other person in obtaining employment with the State of North Carolina;  
10       provided, however, any person, firm, or corporation that is duly licensed ~~and supervised~~ by the  
11       North Carolina Department of Labor as a private ~~employment service acting in the normal course~~  
12       ~~of business, personnel service pursuant to Article 5A of Chapter 95 of the General Statutes,~~ may  
13       collect such regular and customary fees for services rendered pursuant to a written contract when  
14       such fees are paid by someone other than the State of North Carolina; however, any person, firm,  
15       or corporation collecting fees for this service must have been licensed by the North Carolina  
16       Department of Labor as a private personnel service pursuant to Article 5A of Chapter 95 of the  
17       General Statutes for a period of not less than one year.

18           Any person, firm or corporation collecting fees for this service must ~~make a monthly report~~  
19       ~~to the Department of Labor listing the name of the person, firm or corporation collecting fees and~~  
20       ~~the person for whom a job was found, the nature and purpose of the job obtained, and the fee~~  
21       ~~collected by the person, firm or corporation collecting the fee.~~ retain documents as required by  
22       G.S. 95-47.5. Violation of this section shall constitute a Class 1 misdemeanor."

23           **SECTION 5.** This act is effective when it becomes law.