

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 801
Committee Substitute Favorable 4/21/89

Short Title: Amend Private Personnel Services.

(Public)

Sponsors:

Referred to:

March 22, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE CERTAIN CHANGES IN THE LAW REGULATING PRIVATE
3 PERSONNEL SERVICES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 95-47.1 reads as rewritten:

6 **"§ 95-47.1. Definitions.**

7 As used in this Article, unless the context clearly requires otherwise:

8 (1) 'Accept' employment means to accept an employer's offer of
9 employment or to begin work for an employer.

10 (2) 'Applicant,' except where it refers to an applicant for a private
11 personnel services license, means any person who uses or attempts to
12 use the services of a private personnel service in seeking employment.

13 (3) 'Commissioner' means the North Carolina Commissioner of Labor or
14 any person designated by the Commissioner as the representative of
15 the Commissioner.

16 (4) 'Complaint' means a communication to the Commissioner or
17 department alleging facts that could support issuance of a warning or
18 citation under G.S. 95-47.9.

19 (5) 'Contract' means any agreement between a private personnel service
20 and an applicant obligating the applicant to pay a fee or any agreement
21 subsequent to such contract reducing the obligations of the private
22 personnel service to the applicant under the contract.

- 1 (6) 'Employee' means a person performing work or services of any kind or
2 character for compensation.
- 3 (7) 'Employer' means a person employing or seeking to employ a person
4 for compensation, or any representative or employee of such employer.
- 5 (8) 'Employment' means any service or engagement rendered or
6 undertaken for wages, salary, commission, or other form of
7 compensation.
- 8 (9) 'Fee' means anything of value, including money or other valuable
9 consideration or services or the promise of any of the foregoing,
10 required or received by a private personnel service, in payment for any
11 of its services, or act rendered or to be rendered by any private
12 personnel service.
- 13 (10) 'Interview' means a meeting between an employer and an applicant to
14 discuss potential employment.
- 15 (11) 'Job order' means an oral or written communication from an employer
16 authorizing a private personnel service to refer applicants for a
17 position the employer has available.
- 18 (12) 'Licensee' means any person licensed by the Commissioner to operate
19 a private personnel service.
- 20 (13) 'Manager' of a private personnel service means the person who is
21 responsible for the operation of an office of a private personnel
22 service.
- 23 (14) 'Owner' of a private personnel service means the sole proprietor of a
24 private personnel service operated as a sole proprietorship; any
25 partner in a partnership that owns or operates a private personnel
26 service; any stockholder with a financial interest greater than 10
27 percent (10%) in a corporation that owns or operates a private
28 personnel service.
- 29 (15) 'Person' means any individual, association, partnership or corporation.
- 30 (16) 'Private personnel service' means any business operated in the State of
31 North Carolina by any person for profit which secures employment or
32 by any form of advertising holds itself out to applicants as able to
33 secure employment or to provide information or service of any kind
34 purporting to promote, lead to or result in employment for the
35 applicant with any employer other than itself, where any applicant may
36 become liable for the payment of a fee to the private personnel service,
37 either directly or indirectly. 'Private personnel service' does not
38 include:
- 39 a. Any educational, religious, charitable, fraternal or benevolent
40 organization which charges no fee for services rendered in
41 securing employment or providing information about
42 employment;

- 1 b. Any employment service operated by the State of North
2 Carolina, the Government of the United States, or any city,
3 county, or town, or any agency thereof;
- 4 c. Any temporary help service that at no time advertises or
5 represents that its employee may, with the approval of the
6 temporary help service, be employed by one of its client
7 companies on a permanent ~~basis~~; basis and which does not act
8 as a private personnel service or an employer fee paid personnel
9 service;
- 10 d. Any newspaper of general circulation or other business engaged
11 primarily in communicating information other than information
12 about specific positions of employment and that does not
13 purport to adapt the information provided to the needs or
14 desires of an individual subscriber;
- 15 e. Employment offices that charge no fee to the applicant other
16 than union dues or to the employer and which are used solely
17 for the hiring of employees under a valid union contract by the
18 employer subscribing to this contract;
- 19 f. Any employer fee paid personnel consulting service or
20 temporary help service that offers temporary to permanent
21 placement when the service operates on a one hundred percent
22 (100%) employer fee paid service basis, requires no applicant
23 placement contract, and has no recourse against an applicant for
24 a fee under any circumstances.

25 (17) 'Refer' an applicant means to submit resumes to an employer, arrange
26 interviews between an applicant and an employer, or to provide an
27 employer with the name of an applicant."

28 Sec. 2. G.S. 95-47.2(j) reads as rewritten:

29 "(j) Each licensee shall, before the license is issued or renewed, deposit with the
30 department a bond payable to the State of North Carolina and executed by a surety
31 company duly authorized to transact business in the State of North Carolina in the
32 amount of ~~five thousand dollars (\$5,000)~~ ten thousand dollars (\$10,000) and upon
33 condition that the private personnel service will pay to applicants all refunds due under
34 this Article and regulations adopted hereunder if the private personnel service
35 terminates its business."

36 Sec. 3. Article 5A of Chapter 95 of the General Statutes is amended by
37 adding the following sections:

38 "**§ 95-47.14. Notification requirement.**

39 Any temporary help service as described in G.S. 95-47.1(16)c. that operates in North
40 Carolina shall notify the Department of Labor in writing that the temporary help
41 service:

- 42 (1) Operates only as a temporary help service;
43 (2) Establishes an employer-employee relationship with its temporaries;

1 (3) Does not operate as a private personnel service or an employer fee
2 paid personnel consulting service.

3 **"§ 95-47.15. Certification requirement.**

4 Any employer fee paid personnel consulting service or temporary help service, as
5 the two terms are described in G.S. 95-47.1(16)f., that operates in North Carolina shall
6 certify annually to the Department of Labor on a form prescribed by the Commissioner
7 that the service:

8 (1) Operates on a one hundred percent (100%) employer fee paid basis;

9 (2) Requires no applicant placement contract; and

10 (3) Has no recourse against an applicant for a fee under any
11 circumstances."

12 Sec. 4. This act shall become effective October 1, 1989.