

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 443*

Short Title: Nondiscrimination in Public Employment. (Public)

Sponsors: Representatives Luebke, Cotham, Glazier, and Willingham (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary I, if favorable, State Personnel.

April 2, 2015

1 A BILL TO BE ENTITLED
2 AN ACT AMENDING THE STATE HUMAN RESOURCES ACT TO INCLUDE SEXUAL
3 ORIENTATION AND GENDER IDENTITY OR EXPRESSION TO THE LIST OF
4 CLASSIFICATIONS COVERED BY THE STATE'S EQUAL EMPLOYMENT
5 OPPORTUNITY LAW AND REQUIRING LOCAL BOARDS OF EDUCATION TO
6 ADOPT POLICIES FOR NONDISCRIMINATION IN EMPLOYMENT, INCLUDING
7 SEXUAL ORIENTATION AND GENDER IDENTITY OR EXPRESSION AMONG THE
8 COVERED CLASSIFICATIONS.

9 The General Assembly of North Carolina enacts:

10 **SECTION 1.** G.S. 126-16 reads as rewritten:

11 "**§ 126-16. Equal opportunity for employment and compensation by State departments
12 and agencies and local political subdivisions.**

13 All State agencies, departments, and institutions and all local political subdivisions of North
14 Carolina shall give equal opportunity for employment and compensation, without regard to
15 race, religion, color, national origin, sex, age, sexual orientation, gender identity or expression,
16 disability, or genetic information to all persons otherwise qualified."

17 **SECTION 2.** G.S. 126-34.02(b) reads as rewritten:

18 "(b) The following issues may be heard as contested cases after completion of the
19 agency grievance procedure and the Office of State Human Resources review:

20 (1) Discrimination or harassment. – An applicant for State employment, a State
21 employee, or former State employee may allege discrimination or
22 harassment based on race, religion, color, national origin, sex, age, sexual
23 orientation, gender identity or expression, disability, genetic information, or
24 political affiliation if the employee believes that he or she has been
25 discriminated against in his or her application for employment or in the
26 terms and conditions of the employee's employment, or in the termination of
27 his or her employment.

28 (2) Retaliation. – An applicant for State employment, a State employee, or
29 former State employee may allege retaliation for protesting discrimination
30 based on race, religion, color, national origin, sex, age, sexual orientation,
31 gender identity or expression, disability, political affiliation, or genetic
32 information if the employee believes that he or she has been retaliated
33 against in his or her application for employment or in the terms and
34 conditions of the employee's employment, or in the termination of the
35 employee's employment.



- 1 (3) Just cause for dismissal, demotion, or suspension. – A career State employee
2 may allege that he or she was dismissed, demoted, or suspended for
3 disciplinary reasons without just cause. A dismissal, demotion, or suspension
4 which is not imposed for disciplinary reasons shall not be considered a
5 disciplinary action within the meaning of this section. However, in contested
6 cases conducted pursuant to this section, an employee may appeal an
7 involuntary nondisciplinary separation due to an employee's unavailability in
8 the same fashion as if it were a disciplinary action, but the agency shall only
9 have the burden to prove that the employee was unavailable. In cases of such
10 disciplinary action the employee shall, before the action is taken, be
11 furnished with a statement in writing setting forth the specific acts or
12 omissions that are the reasons for the disciplinary action and the employee's
13 appeal rights. The employee shall be permitted 15 days from the date the
14 statement is delivered to appeal under the agency grievance procedure.
15 However, an employee may be suspended without warning pending the
16 giving of written reasons in order to avoid undue disruption of work, to
17 protect the safety of persons or property, or for other serious reasons.
- 18 (4) Veteran's preference. – An applicant for State employment or a State
19 employee may allege that he or she was denied veteran's preference in
20 violation of the law.
- 21 (5) Failure to post or give priority consideration. – An applicant for State
22 employment or a State employee may allege that he or she was denied hiring
23 or promotion because a position was not posted in accordance with this
24 Chapter; or a career State employee may allege that he or she was denied a
25 promotion as a result of a failure to give priority consideration for promotion
26 as required by G.S. 126-7.1; or a career State employee may allege that he or
27 she was denied hiring as a result of the failure to give him or her a
28 reduction-in-force priority.
- 29 (6) Whistleblower. – A whistleblower grievance as provided for in this
30 Chapter."

31 **SECTION 3.** Article 22 of Chapter 115C of the General Statutes is amended by
32 adding a new Part to read:

33 "Part 10. Nondiscrimination in School Employment.

34 "**§ 115C-335.10. School personnel nondiscrimination policy.**

35 (a) Each local board of education shall adopt a policy of nondiscrimination in its
36 personnel policies and practices on the basis of race, religion, color, national origin, age, sex,
37 sexual orientation, gender identity or expression, or disability.

38 (b) For the purposes of this section, the term "school personnel" means any (i)
39 employee of a local board of education, whether full-time or part-time, or (ii) independent
40 contractor or employee of an independent contractor of a local board of education, if the
41 independent contractor carries out duties customarily performed by school personnel, whether
42 paid with federal, State, local, or other funds. The term includes substitute teachers, driver
43 training teachers, bus drivers, clerical staff, and custodians."

44 **SECTION 4.** Nothing in this act shall be construed as requiring the State or any
45 employer, employment agency, or labor organization to give preferential treatment or special
46 rights based on sexual orientation or gender identity or expression, or to implement special
47 affirmative action policies or programs, based on sexual orientation or gender identity or
48 expression.

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