



HOUSE BILL 100: Local Government Immigration Compliance.

2016-2017 General Assembly

Committee:	Senate Judiciary II	Date:	June 21, 2016
Introduced by:	Rep. Cleveland	Prepared by:	Ben Stanley
Analysis of:	PCS to Fourth Edition H100-CSMD-23		Staff Attorney

SUMMARY: *The Proposed Committee Substitute (PCS) for House Bill 100 would provide that the names and addresses of persons requesting to be excused from jury duty based on disqualification under the applicable statute must be retained by the clerk of superiors court for not less than two years; would require the reporting of information about certain disqualified jurors to the State Board of Elections; would make various changes to the statute that prohibits the use of certain forms of identification by State and local officials; and would create a process to make local governments that are not in compliance with State laws related to immigration ineligible to receive certain funds.*

CURRENT LAW: G.S. 15A-311 prohibits the acceptance by State and local officials of forms of identification not specifically authorized to be used for that purpose by the General Assembly. Subsection (c) of that section, however, creates an exception to this prohibition for law enforcement officers when the prohibited forms of identification are the only documents providing an indication of identity or residency of a person available to the law enforcement officer at the time.

Various State laws related to immigration create restrictions on the actions of local governments and law enforcement agencies but currently do not impose penalties for noncompliance.

BILL ANALYSIS: **Section 1** of the bill would require the following:

- That the name and address of each person who requests to be excused from jury duty due to lack of qualifications under the appropriate statute (G.S. 9-3) be retained by the clerk of superior court for at least two years.
- That if a person is excused from jury duty as a result of not being qualified under the appropriate statute, and the reason for the disqualification is also a sufficient basis to make the person ineligible to vote under G.S. 163-55, then this information shall be a public record and must be reported to the State Board of Elections.

Section 2 of the PCS would recodify the statute that governs the acceptability by State and local officials of certain forms of identification not authorized to be used for that purpose by the General Assembly. Specifically, it would move that statute from the Criminal Procedure chapter of the General Statutes (Chapter 15A) to the Aliens chapter (Chapter 64). It would also eliminate the law enforcement exemption currently contained in G.S. 15A-311.

Section 3 of the PCS would create a new statutory article in the Aliens chapter of the General Statutes. This new Article would do the following:

- Require the Attorney General to develop a form that members of the public can use to allege that a city, county, or a local law enforcement agency is not in compliance with a State law related to immigration.

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- Define a "State law related to immigration" to include **G.S. 64-6(b)** (prohibiting local governments and law enforcement agencies from accepting for identification purposes forms of identification not specifically authorized to be used for that purpose by the General Assembly) and **G.S. 153A-145.5** and **160A-205.2** (prohibiting cities and counties from adopting sanctuary policies or ordinances).
- Require the Attorney General to investigate within 45 days complaints that a city, county, or local law enforcement agency has violated a State law related to immigration.
- Make affected local governments ineligible to receive distributions from the Public School Building Capital Fund and distributions of State funds for local road projects ("Powell Bill" funding) for the fiscal year following the first date of noncompliance with the applicable State law related to immigration. If the violation is not cured within 60 days, affected local governments would lose these sources of funding for an additional fiscal year.
- Defines "Affected local government" as any of the following:
 - (1) A municipality found by the Attorney General to be not in compliance with a State law related to immigration.
 - (2) A municipality in which a municipal law enforcement agency has been found to be not in compliance with a State law related to immigration.
 - (3) A county found to be not in compliance with a State law related to immigration.
 - (4) A county in which a county law enforcement agency has been found to be not in compliance with a State law related to immigration.
- Impose the same consequences for violations of G.S. 143-133.3 (prohibiting political subdivisions of the State from entering into a contract unless the contractor, and the contractor's subcontractors under the contract, comply with the State's E-Verify statutes).
- Require the Attorney General to maintain certain information and to make various reports on the implementation of the act.
- Authorize appeals of Attorney General determinations only where an appeal is required to be made available under the U.S. or North Carolina constitutions.
- Authorize enforcement through the filing of actions by private parties to obtain declaratory and injunctive relief when a person believes that a city, county, or law enforcement agency is not in compliance with a State law related to immigration.

EFFECTIVE DATE: Section 4 of the PCS provides that Section 1 of the PCS would become effective January 1, 2017. The remainder of the PCS would become effective August 1, 2016.