



This Bill Analysis reflects the contents of the bill as it was presented in committee.

# HOUSE BILL 561: School System Auth. Re: Legal Proceedings

2015-2016 General Assembly

<b>Committee:</b>	Senate Education/Higher Education	<b>Date:</b>	July 15, 2015
<b>Introduced by:</b>	Reps. Blackwell, Glazier	<b>Prepared by:</b>	Drupti Chauhan
<b>Analysis of:</b>	Second Edition		Committee Counsel

**SUMMARY:** House Bill 561 would allow a state or federal administrative agency with a quasi-judicial function or any court of law to inspect confidential employee personnel records of a current or former employee of a local board of education in certain instances, and (2) provide a local board of education the authority to subpoena tangible items in matters where an employee is suspected of committing job-related misconduct.

**CURRENT LAW:** G.S. 115C-321 requires information in personnel files of employees of local boards of education be kept confidential, with certain exceptions. Information required to be kept confidential is limited to inspection and examination by the following:

- (1) The employee, applicant for employment, former employee, or the employee's agent;
- (2) The superintendent and supervisory personnel;
- (3) Members of the local board of education and the local board attorney; and
- (4) A party by authority of a subpoena or court order.

Confidential information may also be made available to law enforcement in specified circumstances, and certain information may be released in the discretion of the local board of education if the board has determined that such release is essential to maintaining the board's integrity or in maintaining the level or quality of services provided by the board, as set out in a memorandum.

G.S. 115C-45 provides local boards of education with the power to issue subpoenas for the attendance of witnesses in any and all matters that may lawfully come within the powers of the board and which, in the discretion of the board, require investigation.

**BILL ANALYSIS:** House Bill 561 would make the following changes:

**Section 1** would permit a state or federal administrative agency with a quasi-judicial function or court of law to inspect confidential portions of an employee's personnel file if all of the following apply:

- 1) A current or former employee has filed a claim against the local board of education or a school official or employee for any alleged act or omission arising during the course and scope of the employee's official duties or employment.
- 2) In the discretion of the superintendent or superintendent's designee, disclosure is necessary to adequately defend against the employee's claim.
- 3) Disclosure is limited to that employee's records only, and to the extent necessary for the defense of the local board of education.

**Section 2** of HB 561 would empower local boards of education to issue subpoenas for the production of all tangible items in matters where an employee is suspected of committing job-related misconduct and

O. Walker Reagan  
Director



Research Division  
(919) 733-2578

\* H 5 6 1 - S M R Q - 4 5 E 2 - V 2 \*

# House Bill 561

*Page 2*

which, in the discretion of the board or superintendent, requires investigation. The types of tangible things to be subpoenaed could include but would not be limited to: documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic communications, electronic data processing records, artifacts, or other documentary material, regardless of physical form or characteristics.

**EFFECTIVE DATE:** HB 561 would become effective October 1, 2015.

*Kara McCraw, counsel to House Judiciary Committee IV, and Jan Paul, counsel to Senate Judiciary II, substantially contributed to this summary.*