



# SENATE BILL 419: Limit Revolving Door Employment

2015-2016 General Assembly

<b>Committee:</b> Senate State and Local Government	<b>Date:</b> April 13, 2015
<b>Introduced by:</b> Sen. Hise	<b>Prepared by:</b> R. Erika Churchill and Brad Krehely, Committee Counsel
<b>Analysis of:</b> First Edition	

**SUMMARY:** *Senate Bill 419 would prohibit the State from contracting with vendors who utilize certain former State employees in the administration of State contracts within six months after the employee has terminated employment with the State.*

**CURRENT LAW:** It is a Class 1 misdemeanor under two separate statutes for any State employee involved in administering a contract to accept a gift or favor from the contractor:

- G.S. 14-234 – Public officers or employees benefiting from public contracts; exceptions. That statute specifically includes the 'promise of future employment' as a gift or favor.
- G.S. 133-32 – Gifts and favors regulated.

For those State employees who are also public servants, and for non-advisory board and commission members, the State Government Ethics Act, with limited exceptions, also prohibits them from accepting a gift from any of the following persons:

- Is doing or is seeking to do business of any kind with the public servant's State agency.
- Is engaged in activities that are regulated or controlled by the public servant's State agency.
- Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the public servant's official duties.
- Lobbyist principals
- Lobbyists (G.S. 138A-32)

For State employees who are also public servants, and for non-advisory board and commission members, the State Government Ethics Act prohibits them from taking official action, which specifically includes any decision made or contemplated in any contract, that will result in financial benefit for themselves, their extended family, or a business with which the public servant is associated. G.S. 138A-31(a).

**BILL ANALYSIS:** Senate Bill 419 would prohibit the Secretary of Administration and other entities of the State from contracting for goods or services with a vendor that employs or contracts with a person who is a "former State employee" and uses that person in the administration of a contract with the State.

A "former State employee" would be defined as:

"A person, who for any period within the preceding 6 months, was employed as an employee or contract employee of the State by the State agency for which the contract applies, who in the 6 months immediately preceding termination of State employment, participated personally in



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either the award or management of a State contract with the vendor, or made regulatory or licensing decisions that directly applied to the vendor."

"Administration of a contract" would be defined to include interpreting a contract, overseeing its performance, helping to develop its specifications or terms, helping with its preparation or award, or having authority to make decisions regarding it.

Under the bill the Secretary of Administration would have to require each vendor submitting a bid or a contract to certify that it will not use a former State employee in the administration of a contract. Any person who submits a certification knowing the certification to be false would be guilty of a Class I felony. A violation of this statute would void any contract between the State and the violating vendor.

**EFFECTIVE DATE:** October 1, 2015, and apply to contracts entered into on or after that date.