



HOUSE BILL 2: Public Facilities Privacy & Security Act.

2016-2017 General Assembly

Committee:		Date:	March 23, 2016
Introduced by:	Reps. Bishop, Stam, Howard, Steinburg	Prepared by:	Kara McCraw
Analysis of:	S.L. 2016-3		Committee Co-Counsel

SUMMARY: S.L. 2016-3:

- 1. Requires single sex multiple occupancy bathrooms and changing facilities in public schools and public agencies.*
- 2. Supersedes and preempts all local ordinances, regulations, resolutions, or policies imposing any requirements on employers pertaining to compensation of employees, with certain exceptions.*
- 3. Prohibits cities and counties from requiring private contractors to abide by regulations or controls on employment practices or to mandate or prohibit provision of goods, services, or accommodations to any member of the public, except as required by State law.*
- 4. Supersedes and preempts any local ordinance, regulation, resolution, or policy that regulates or imposes any requirements on employers pertaining to regulation of discriminatory practices in employment.*
- 5. Creates a State law pertaining to discrimination in public accommodations. Supersedes and preempts any local ordinance, regulation, resolution, or policy that regulates or imposes any requirements pertaining to regulation of discriminatory practices in a place of public accommodation.*

BILL ANALYSIS: S.L. 2016-3 makes the following changes:

PART I: SINGLE SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING FACILITIES

Sections 1.1, 1.2, and 1.3: Requires local boards of education and public agencies to designate and require use of single sex multiple occupancy bathroom and changing facilities based on a person's biological sex, as stated on that person's birth certificate.

- Local boards of education and public agencies are permitted to provide accommodations upon request due to special circumstances, but such accommodations may not include use of a single sex multiple occupancy bathroom or changing facility designated for the opposite biological sex.
- Exceptions to the requirements include the following: custodial use, maintenance or inspection, medical assistance, assistance in use of the facility, and use of a facility temporarily designated for use by that biological sex.

PART 2: STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND CONTRACTING

Section 2.1: As part of the State Wage and Hour Act, supersedes and preempts ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political



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subdivision regulating or imposing any requirements on employers pertaining to compensation of employees. Local governments are not prohibited from regulating or imposing employee compensation requirements in the following areas:

- Employees of the local government.
- Economic development incentives awarded under Chapter 143B.
- Economic development incentives awarded under the Local Development Act of 1925.
- Federal community development block grants.
- Community development programs and activities established by cities and counties under G.S. 153A-376 or G.S. 160A-456.

Section 2.2 and 2.3: Repeals a prohibition on city and county contract provisions that create restrictions the county could not impose on all employers in the county, and instead prohibits counties and cities from requiring private contractors to abide by the following, except as otherwise required or allowed by State law:

- Regulations or controls on the contractor's employment practices.
- Mandates or prohibitions on the provision of goods, services, or accommodations to any member of the public.

PART III: PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC ACCOMMODATIONS

Section 3.1: Clarifies the protected class of sex as "biological sex" in the Equal Employment Practices Article, providing the public policy of the State to protect and safeguard the right and opportunities of all persons to employment without discrimination on the basis of race, religion, color, national origin, age, sex, or handicap by employers of 15 or more.

Sec. 3.1 also declares the regulation of discriminatory practices in employment an issue of general statewide concern, and supersedes and preempts ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political subdivision regulating or imposing any requirements on employers relating to regulation of discriminatory practices in employment, except regulations related to that body's own personnel that do not otherwise conflict with State law.

Section 3.2: States that neither statutory nor common law private rights of action are created by the Equal Employment Practices Article, and no person may bring a civil action based on the public policy expressed in that Article.

Section 3.3: Establishes a new Article, "Equal Access to Public Accommodations," declaring the public policy of the State to protect and safeguard the right and opportunities of all individuals to enjoy fully and equally places of public accommodation without discrimination on the basis of race, religion, color, national origin, or biological sex.

An exception allows the provision of multiple or single occupancy bathrooms or changing rooms based on biological sex.

Sec. 3.3 declares the regulation of discriminatory practices in a place of public accommodation an issue of general statewide concern, and supersedes and preempts ordinances, regulations, resolutions, or policies adopted or imposed by any unit of local government or other political subdivision regulating or imposing any requirements on employers relating to regulation of discriminatory practices in a place of public accommodation.

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Sec. 3.3 authorizes the Human Relations Commission in the Department of Administration to receive, investigate, and conciliate complaints of discrimination in public accommodations and use best efforts to affect amicable resolutions.

Sec. 3.3 states that neither statutory nor common law private rights of action are created by the Equal Access to Public Accommodations Article, and no person may bring a civil action based on the public policy expressed in that Article.

Section 4 provides for severability of each provision of the act.

EFFECTIVE DATE: S.L. 2016-3 became effective March 23, 2016, and applies to any action taken on or after that date, to any ordinance, resolution, regulation, or policy adopted or amended on or after that date, and to any contract entered on or after that date. Sections 2.1, 2.2, 2.3, 3.1, 3.2, and 3.3 of the act supersede and preempt any ordinance or resolution adopted prior to the effective date of the act that purports to regulate a subject matter preempted by this act or that violates or is not consistent with the act, and such ordinances, resolutions, regulations, or policies are null and void as of the effective date.