



2023-2024 General Assembly

HOUSE BILL 259: 2023 Appropriations Act, Sec. 29A.2: Use of Temporary Solutions Program by Cabinet and Council of State Agencies For Hiring Temporary Employees

Committee:		Date:	December 13, 2023
Introduced by:		Prepared by:	Brad Krehely Staff Attorney
Analysis of:	Sec. 29A.2 of S.L. 2023-134		

OVERVIEW: Section 29A.2 of S.L. 2023-134 prohibits temporary employees of cabinet agencies and Council of State agencies from being employed for more than 11 consecutive months. To be reinstated after working 11 consecutive months, the temporary employee must be separated for at least 31 consecutive calendar days. This section requires the Office of State Human Resources (OSHR) to prohibit an agency or division, based on individual budget code, from hiring new temporary employees if the agency or division (i) owes an invoice to OSHR that is over 90 days overdue and (ii) has a total overdue invoice amount exceeding \$200,000 for any number of days unless an exception applies. This section became effective July 1, 2023, and applies to temporary employees hired on or after that date.

CURRENT LAW: All Cabinet agencies that utilize temporary employees to perform work that is not information technology-related must employ them through the Temporary Solutions Program administered by OSHR. The Director of OSHR (Director) can create a written exception if the exception is in the best interests of the State. Council of State agencies can use the Temporary Solutions Program. G.S. 126-3.3(a).

OSHR must monitor the employment of temporary employees by Cabinet and Council of State agencies and must report biannually to the Joint Legislative Oversight Committee on General Government and to the Fiscal Research Division on agency compliance with these provisions. State agencies granted an exception from using the Temporary Solutions Program, and Council of State agencies choosing not to use the program must record the time worked by each temporary employee, including the number of hours worked per week, number of months worked, and the amount of time the employee was not employed after 11 consecutive months of service with the agency. For temporary employees, agencies must use BEACON or the system that supersedes BEACON for payroll purposes. If it is not feasible for an agency to use BEACON, or the superseding system for payroll purposes, the agency must report the information required by this section to the OSHR. G.S. 126-3.3(b).

BILL ANALYSIS: Section 29A.2 of S.L. 2023-134 contains the following provisions.

Prohibitions:

Temporary employees of cabinet agencies and Council of State agencies must not be employed for more than 11 consecutive months. To be reinstated after working 11 consecutive months, the temporary employee must be separated for at least 31 consecutive calendar days.

This section of the act also requires OSHR to prohibit an agency or division, based on individual budget code, from hiring new temporary employees if the agency or division (i) owes an invoice to OSHR that is

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over 90 days overdue and (ii) has a total overdue invoice amount exceeding \$200,000 for any number of days. These requirements do not apply to the North Carolina National Guard.

Exceptions:

The Director can create exceptions from G.S. 126-6.3(a) when the following conditions are met:

- The Temporary Solutions Program cannot meet the agency's employment needs for a class of temporary job assignments.
- Failure to recruit for the class of temporary job assignments will cause severe harm to the agency's ability to provide services to the public.

The following temporary employees are exempt from G.S. 126-6.3(a1): full time students, retired employees, inmates on work release programs, interns, and externs.

The Director can create exceptions from G.S. 126-6.3(a1) when the following conditions are met:

- The exception is in the best interests of the State.
- The exception does not extend the 11-month maximum length of temporary employment beyond 22 months from the initial hire date.

The Director has discretion to grant exceptions, but cannot deny the North Carolina National Guard's exceptions. Exceptions must have a written justification of the exception on file with the Temporary Solutions Program Office.

Cabinet and Council of State Agency Responsibilities:

Cabinet and Council of State agencies must send a separation request or notification of the 31-day separation to OSHR before a temporary employee exceeds 11 consecutive months unless an exception applies. Failure to provide timely requests can limit an agency's future use of temporary employees.

OSHR Responsibilities:

The OSHR must monitor the employment of temporary employees and provide written notice to the agency 90, 60, and 30 days prior to the employee reaching 11 consecutive months of service. Temporary employees employed beyond 11 consecutive months must be separated from BEACON no more than 2 weeks afterwards unless an exception applies.

Reporting:

OSHR must provide a quarterly report to the Joint Legislative Oversight Committee on General Government and the Fiscal Research Division on agency compliance with these provisions.

EFFECTIVE DATE: This section became effective July 1, 2023, and applies to temporary employees hired on or after that date.