



# SENATE BILL 364: Nondiscrim & Dignity in State Work.

2023-2024 General Assembly

<b>Committee:</b>		<b>Date:</b>	June 6, 2023
<b>Introduced by:</b>	Sens. Daniel, Johnson, Overcash	<b>Prepared by:</b>	Brian Gwyn*
<b>Analysis of:</b>	Fourth Edition		Staff Attorney

**OVERVIEW:** *The 4th edition of Senate Bill 364 would add two new sections to the North Carolina Human Resources Act (the Act).*

### BILL ANALYSIS:

**Section 1.(a)** would require each State agency, department, and institution to do the following:

- Refrain from soliciting or requiring an applicant for employment to endorse or opine about beliefs, affiliations, ideals, or principles regarding matters of contemporary political debate or social action as a condition of employment.
- Refrain from soliciting or requiring an applicant to describe the applicant's actions in support of, or in opposition to, his or her beliefs, affiliations, ideals, or principles.

An application for employment must not inquire into matters prohibited as compelled speech under the new section.

The prohibitions on compelled speech would not:

- Infringe on an applicant's ability to voluntarily opine or speak regarding any matter, including matters of contemporary political debate or social action.
- Prohibit discussion with or questions to an applicant regarding content of the applicant's resume, curriculum vitae, or other written work or oral remarks.
- Affect the ability of the prospective employing agency from complying with applicable federal or State law.
- Apply to free speech protected by the First Amendment of the U.S. Constitution.

**Section 1.(b)** would apply the language in Section 1.(a) to all (i) nonexempt State employees in the executive branch, including nonexempt employees of The University of North Carolina and nonexempt employees of the Community Colleges System Office, and (ii) community college employees.

**Section 2.(a)** would create a new section in the Act and state the General Assembly's intent that State employees respect the dignity of others, acknowledge the right of others to express differing opinions, and the right to freedom of speech and association and that State agencies employ training methods and procedures to further that intent.

The promotion of certain concepts would be prohibited in State government workplaces or as part of any State employee training. "Promote" would mean the compelling of State employees to affirm or profess belief in the following concepts:

- One race or sex is inherently superior to another race or sex.

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Director



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- An individual, solely by virtue of his or her race or sex, is inherently racist, sexist, or oppressive.
- An individual should be discriminated against or receive adverse treatment solely or partly because of his or her race or sex.
- An individual's moral character is necessarily determined by his or her race or sex.
- An individual, solely, by virtue of his or her race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.
- Any individual, solely by virtue of his or her race or sex, should feel discomfort, guilt, anguish, or any other form of psychological distress.
- A meritocracy is inherently racist or sexist.
- The United States was created by members of a particular race or sex for the purpose of oppressing members of another race or sex.
- The United States government should be violently overthrown.
- Particular character traits, values, moral or ethical codes, privileges, or beliefs should be ascribed to a race or sex or to an individual because of the individual's race or sex.
- The rule of law does not exist, but instead is a series of power relationships and struggles among racial or other groups.
- All Americans are not created equal and are not endowed by their Creator with certain unalienable rights, including life, liberty, and the pursuit of happiness.
- Governments should deny to any person within the government's jurisdiction the equal protection of the law.

A private contractor, who provides training to State employees, would not be prohibited from responding to questions raised by trainees which pertain to the concepts listed above. The private contractor must make it clear that the State government employer does not endorse the concepts.

This new section would not apply to speech protected by the First Amendment of the U.S. Constitution.

**Section 2.(b)** would apply the language in Section 2.(a) to all (i) nonexempt State employees in the executive branch, including nonexempt employees of The University of North Carolina and nonexempt employees of the Community Colleges System Office, and (ii) community college employees.

**Section 3.(a)** would provide a severability clause.

**EFFECTIVE DATE:** This act would be effective December 1, 2023.

*\*Kristen Harris, Staff Attorney with the Legislative Analysis Division, substantially contributed to this summary.*