

**§ 126-6.3. Temporary employment needs of Cabinet and Council of State agencies; use of the Temporary Solutions Program.**

(a) Use of Temporary Solutions Required for Cabinet Agencies. – Notwithstanding G.S. 126-5 or any other provision of law, all Cabinet agencies that utilize temporary employees to perform work that is not information technology-related shall employ them through the Temporary Solutions Program administered by the Office of State Human Resources (OSHR). Council of State agencies may use the Temporary Solutions Program in the discretion of the agency.

(a1) Temporary Employment Restrictions. – No temporary employee shall be employed more than 11 consecutive months. A temporary employee shall only be eligible for reinstatement on the job assignment after working 11 consecutive months if the temporary employee is separated for at least 31 consecutive calendar days. Temporary employees shall not be used to permanently expand the workforce beyond authorized levels.

(a2) Prohibition. – The OSHR shall prohibit from acquiring new temporary employees any agency or division, based on individual budget code, having an invoice owed to the OSHR that is over 90 days overdue and a total overdue invoice amount exceeding two hundred thousand dollars (\$200,000). When an agency or division, based on individual budget code, is restricted from acquiring a new temporary employee under this subsection, the agency or division shall not be allowed to acquire new temporary employees through the Temporary Solutions Program until the agency or division has paid all invoices that are over 90 days overdue. The provisions of this subsection do not apply to the North Carolina National Guard.

(a3) Exceptions. – The following exceptions apply:

- (1) The Director of the OSHR may create exceptions to the requirements of subsection (a) of this section only when the following conditions are met:
  - a. The Temporary Solutions Program cannot meet the agency's employment needs for a class of temporary job assignments.
  - b. 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.
- (2) A temporary employee who is a full-time student, a retired employee, an inmate on a work-release program, an intern, or an extern is exempt from the requirements of subsection (a1) of this section.
- (3) The Director of the OSHR may create exceptions to the requirements of subsection (a1) of this section only when all of the following conditions are met:
  - a. The exception is in the best interests of the State because removing the employee from the job assignment will cause severe harm to the agency's ability to provide vital services to the public.
  - b. The exception will not result in extending the 11-month maximum length of temporary employment beyond 22 months from the employee's initial hire date.
- (4) The Director of the OSHR may create exceptions to the requirements of subsection (a2) of this section only when failure to acquire new temporary employees will cause severe harm to the agency's ability to provide vital services to the public.

All exceptions shall be in the sole discretion of the Director of the OSHR except that the North Carolina National Guard is hereby granted preferred status for exceptions which shall not be denied by the Director. All exceptions shall include a justification of why the exception is necessary. An exception is invalid unless it is submitted in writing and on file in the Temporary Solutions Program Office. To the extent possible, the Director of the OSHR or the Director's

designee shall advise agencies of alternative job classification options prior to approval of exceptions to subsection (a1) of this section.

(a4) Cabinet and Council of State Agency Responsibilities. – Cabinet and Council of State agencies are responsible for sending a separation request or notification of the 31-day separation to the OSHR before a temporary employee exceeds 11 consecutive months unless an exception from subsection (a1) of this section applies. Failure to provide timely separation requests may limit an agency from future access to temporary employees.

(a5) OSHR Responsibilities. – The OSHR shall monitor the employment of all temporary employees by Cabinet and Council of State agencies. Temporary employees still employed beyond 11 consecutive months shall be separated from BEACON, or the system which supersedes BEACON, by the OSHR no more than two weeks past the 11-month limit unless an exception from this section applies. The OSHR shall provide written notice to the agency at intervals of 90, 60, and 30 days prior to the temporary employee reaching 11 consecutive months of service.

(a6) Reporting. – Beginning January 1, 2024, and then quarterly thereafter, the OSHR shall report to the Joint Legislative Oversight Committee on General Government and to the Fiscal Research Division on agency compliance with this section and policies and rules adopted pursuant to it, including:

- (1) The number and type of all exceptions made by the Director of the OSHR.
- (2) Any agency invoices with due dates greater than 60 days.
- (3) Compliance with G.S. 147-86.11(e)(3) through (e)(4).
- (4) The number of temporary employees who exceeded 11 months of consecutive employment, and the number of days each employee exceeded 11 months of employment, separated by State agency.

For any temporary employee that is not entered and monitored through the BEACON system, the agency shall record the time worked by each temporary employee in the agency, 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 and report the information monthly to the OSHR. To the extent possible for temporary employees, agencies shall use BEACON, or the State payroll 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 shall report monthly the information required by this section to the OSHR in accordance with guidelines and requirements established by the Director of Temporary Solutions.

(b) Repealed by Session Laws 2023-134, s. 29A.1A(b), 29A.2(a), effective October 3, 2023.

(c) Definitions. – For purposes of this section, the following definitions shall apply:

- (1) Cabinet agency. – A unit of the executive branch of State government, such as a department, an institution, a division, a commission, a board, or a council that is under the control of the Governor. The term does not include an agency that is under the control of an official who is a member of the Council of State.
- (2) Council of State agency. – An agency that is under the control of an official who is a member of the Council of State.
- (3) Extern. – A student who, regardless of the number of credit hours enrolled, is employed as part of a written agreement between the State and an academic institution through which the student is paid and earns course credit.
- (4) Full-time student. – An undergraduate student taking at least 12 credit hours or a graduate student taking at least nine credit hours.
- (5) Intern. – A student who, regardless of the number of credit hours enrolled, works to gain occupational experience for a period of at least one academic semester.

- (6) Retired employee. – An individual drawing a retirement income or Social Security benefits and who has signed a statement that the individual is not available for, nor seeking, permanent employment.
- (7) Temporary employee. – A State employee who is employed in a temporary appointment for a limited term, including a State employee hired from the OSHR Temporary Solutions Program, directly hired by an agency, hired by an agency from a private staffing firm, or hired by any other method used to fill a workforce need for a limited period of time. The term does not include a career State employee as defined by G.S. 126-1.1. (2015-241, s. 26.2(e); 2018-5, s. 26A.2; 2023-134, s. 29A.2(a); 2024-23, s. 10.)