

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE DRS75126-MA-200 (03/10)

Short Title: Law Enforcement Officer Fairness Act.

(Public)

Sponsors: Senators Rouzer, Stein, and Soucek (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO STANDARDIZE THE DISMISSAL OF MUNICIPAL LAW ENFORCEMENT
3 OFFICERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. The General Statutes of North Carolina are amended by adding a
6 new Chapter to read:

7 **Chapter 17F.**

8 **"Dismissal of Certain Law Enforcement Officers.**

9 **"§ 17F-1. Title of this act.**

10 This act shall be known and may be cited as the "Municipal Law Enforcement
11 Accountability, Transparency, and Fairness Act."

12 **"§ 17F-2. Definitions.**

13 The following definitions apply to this Chapter:

14 (1) Career law enforcement officer. – An employee of a local entity who is in a
15 permanent position appointment and has been continuously employed by the
16 employing agency for the immediate 12 preceding months.

17 (2) Employing agency. – A law enforcement agency authorized by law for any
18 political subdivision of the State other than a county or a local ABC board.

19 (3) Law enforcement officer. – Defined in G.S. 143-166.30(a)(3).

20 **"§ 17F-3. Just cause; disciplinary actions for local law enforcement officers.**

21 (a) Just Cause. – The employing agency shall adopt, subject to the approval of the
22 municipality's governing authority, rules that define just cause.

23 (b) Dismissal of Officer. – No career local law enforcement officer may be dismissed
24 by an employing agency except for just cause.

25 (c) Notice and Opportunity to Be Heard. – If an employing agency considers matters
26 that could reasonably lead to the discharge of a law enforcement officer for punitive reasons,
27 each employing agency shall establish minimum procedures to ensure that any officer is
28 afforded notice of the charges and an opportunity to be heard prior to the imposition of the
29 disciplinary action against the officer. These procedures shall include, as a minimum, the right
30 to a hearing before a fair and impartial board or hearing officer, the right to be represented at
31 the officer's expense, the right to question any witnesses who give oral statements against the
32 officer, the right to call witnesses and present evidence, and the right to have all meetings
33 recorded for use at any supplemental adjudicatory hearing or court proceeding.

34 **"§ 17F-4. Review boards.**



1 (a) Review Boards Established. – All municipalities subject to the provisions of this
2 Chapter shall establish an impartial hearing officer or review board to review all disciplinary
3 actions appealed by an aggrieved law enforcement officer and hold hearings for formal
4 determination of a final decision of the review board.

5 (b) Representation. – A law enforcement officer has the right to be represented at the
6 officer's expense.

7 (c) Witnesses. – At any hearing before a review board established pursuant to
8 subsection (a) of this section, a law enforcement officer shall have the right to call witnesses
9 and present all evidence in the officer's favor and to question any witness who has provided
10 information to the employing agency that resulted in the commencement of the action before
11 the review board. If a witness fails to show up at the hearing required by this section, that
12 statement or evidence shall not be admitted, and the decision must be based on the remaining
13 evidence. The rules of civil procedure and evidence may be used, but are not required, for
14 hearings held by review boards pursuant to this section.

15 (d) Recordings; Transcripts. – All hearings shall be recorded for a final adjudication in
16 the event a court of competent jurisdiction requests the recording or a transcript of the
17 recording. Any party wishing to receive a copy of the recording of a hearing proceeding
18 required by this section shall be required to pay the cost of copying the recording only. A party
19 wishing to receive transcripts shall be required to pay the cost of transcription.

20 **"§ 17F-5. Certain review boards validated.**

21 Employing agencies using an established civil service system, agency review board,
22 civilian complaint board, or personnel board that meets the minimum requirements established
23 in G.S. 17F-4 or otherwise provides due process is in compliance with this Chapter.

24 **"§ 17F-6. Adoption by ordinance.**

25 Each municipality employing law enforcement officers shall adopt an ordinance that
26 provides the minimum rights required by this Chapter. The ordinance shall also include the
27 composition, powers, and duties of the review board required by G.S. 17F-4. The ordinance
28 shall establish a policy addressing dismissals, grievances by law enforcement officers, and the
29 definition of "just cause" for law enforcement officer dismissals.

30 **"§ 17F-7. Applicability; exceptions.**

31 (a) Applicability. – This Chapter shall apply to all municipal law enforcement agencies
32 and includes unified city-county government police agencies.

33 (b) Exceptions. – This Chapter shall not apply to any law enforcement officer employed
34 by the State of North Carolina, a county, a local ABC board, a school board, a county police, a
35 company police agency, a campus police agency, or any other law enforcement agency created
36 by the State as a special police agency."

37 **SECTION 2.** This act becomes effective December 1, 2011, and applies to
38 disciplinary actions taken against law enforcement officers employed by municipalities on or
39 after that date.