

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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SENATE DRS25125-ROz-23A* (04/04)

Short Title: Burden of Proof in Certain Contested Cases. (Public)

Sponsors: Senator Hartsell (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THAT THE STATE AGENCY HAS THE BURDEN OF PROOF
3 IN CERTAIN CONTESTED CASES, AS RECOMMENDED BY THE JOINT
4 LEGISLATIVE ADMINISTRATIVE PROCEDURE OVERSIGHT COMMITTEE.
5 The General Assembly of North Carolina enacts:
6 SECTION 1. Article 3 of Chapter 150B of the General Statutes is amended by
7 adding a new section to read:
8 "§ 150B-25.1. Burden of proof.
9 (a) Except as provided by this section, the petitioner in a contested case has the burden
10 of proving the facts alleged in the petition by a preponderance of the evidence.
11 (b) In a contested case involving the imposition of civil fines or penalties by a State
12 agency for violation of the law, the burden of showing that the person who was fined actually
13 committed the act for which the fine or penalty was imposed rests with the State agency.
14 (c) The burden of showing that a career State employee subject to Chapter 126 of the
15 General Statutes was discharged, suspended, or demoted for just cause rests with the agency
16 employer."
17 SECTION 2. The Joint Legislative Administrative Procedure Oversight Committee
18 shall study whether there are other categories of contested cases in which the burden of proof
19 should be placed with the agency.
20 SECTION 3. This act is effective when it becomes law and applies to contested
21 cases commenced on or after that date.



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