

Out Of Order



NORTH CAROLINA GENERAL ASSEMBLY
AMENDMENT
Senate Bill 805

AMENDMENT NO. A1
(to be filled in by
Principal Clerk)

S805-ALR-37 [v.2]

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Amends Title [YES]
Second Edition

Date _____, 2020

Representative Hunt

1 moves to amend the bill on page 1, line 4, by deleting "EXPENDITURES." and substituting:
2 "EXPENDITURES; AND TO MANDATE HAZARD PAY FOR THE MANDATORY STATE
3 EMPLOYEES ON THE FRONT LINE FIGHTING THE COVID-19 COMMUNICABLE
4 DISEASE PANDEMIC AND APPROPRIATING FUNDS FOR THAT PURPOSE.";

5
6 and further moves to amend the bill on page 3, lines 3-4, by inserting the following between the
7 lines:

8 "SECTION 7.1. Article 2 of Chapter 126 of the General Statutes is amended by
9 adding a new section to read:

10 "**§ 126-8.6. Mandatory State operations; mandatory employees; hazard pay requirements.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Epidemic. – A disease occurring suddenly in a community, region, or country
13 in numbers clearly in excess of normal. This includes the occurrence of several
14 cases of a disease associated with a common source.

15 (2) High-risk employees. – Employees in a certain age group or who have serious
16 underlying medical conditions and might be at higher risk for severe illness
17 from a communicable disease as identified by the federal Centers for
18 Communicable Diseases or the Division of Public Health of the North
19 Carolina Department of Human Services.

20 (3) Isolation. – A control measure issued by a local health director or the State
21 Health Director under G.S. 130A-145 limiting the movement or action of
22 persons or animals infected or reasonably suspected to be infected with a
23 communicable disease or condition for the period of communicability to
24 prevent the spread of the communicable disease or condition, as described in
25 G.S. 130A-2(3a).

26 (4) Mandatory employee. – An employee with a permanent, probationary, or
27 time-limited appointment who is required to report to a designated work site
28 (particularly when all other employees are restricted from coming into the
29 workplace), other than their personal residence, and only for those specific
30 dates and times that such onsite reporting is required during a public health
31 emergency. Mandatory employees include, but are not limited to, employees
32 in positions that directly impact: (i) public health and patient care, (ii) public



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- 1 safety, (iii) operation of critical infrastructure and facilities, (iv) operation and
2 safety of sensitive research labs and ongoing care for research animals and the
3 custody or care of persons or property for whom the State has a duty to
4 continue to serve. Mandatory employees may also be referred to as "essential
5 employees."
6 (5) Pandemic. – The worldwide spread of an infectious/communicable disease
7 affecting a large number of people.
8 (6) Quarantine. – A control measure issued by a local health director or the State
9 Health Director under G.S. 130A-145 limiting the movement or action of
10 persons or animals who have been exposed to or are reasonably suspected of
11 having been exposed to a communicable disease or condition for the period of
12 time necessary to prevent the spread of the communicable disease or
13 condition, as described in G.S. 130A-2(7a).
14 (7) Social distancing. – Actions taken to reduce the opportunities for close contact
15 between people in order to limit the spread of a communicable disease.
16 (8) State agency or agency. – The legislative, executive, and judicial branches of
17 State government and the respective departments, divisions, and other units
18 thereof. The term includes The University of North Carolina.
19 (b) Findings and Policy. – Notwithstanding the existence of a communicable disease
20 epidemic or pandemic in this State, the mandatory essential functions of government must
21 continue, even if isolation, quarantine, and social distancing are public health control measures
22 that may be required to protect the public health. Certain State employees are essential such that
23 their continued presence in the workplace may be required in a situation. It is the policy of this
24 State to provide mandatory State employees with (i) the most effective equipment and measures
25 to protect their health in the workplace and (ii) hazard pay to compensate them for their continued
26 service during an epidemic or pandemic.
27 (c) Agency Responsibilities. – It is the responsibility of the head of each State agency to
28 consult with local, State, and federal public health officials to assess the severity of the individual
29 situation and to determine what actions shall be taken (including the closure of the agency or
30 university, by facility or location). Each State agency shall:
31 (1) Comply with and adhere to any control measures, other orders, or instructions
32 from federal, State, and local public health agencies to prevent transmission
33 of a communicable disease.
34 (2) Require that agency management and employees follow public health
35 guidelines.
36 (3) Immediately inform agency management and other employees, and the local
37 health department, of any evidence in the workplace of a communicable
38 disease that could seriously endanger the health of employees and others.
39 (d) Mandatory Operations. – In order to continue essential State government functions,
40 the head of each State agency shall predetermine and designate mandatory operations and
41 designate the mandatory employees to staff the operations even when isolation, quarantine, and
42 social distancing are public health control measures that may be required to protect the public
43 health during a communicable disease pandemic or epidemic.

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1 (e) Mandatory Employees. – A mandatory employee may be required to work during a
2 pandemic or epidemic in order to maintain mandatory operations. A mandatory employee may
3 be excused from work if the employee is:

4 (1) A high-risk employee;

5 (2) Isolated, quarantined, ill, or subject to other public health control measures;
6 or

7 (3) Required to care for a member of the employee's immediate family who is
8 isolated, quarantined, or ill or who requires the employee's care due to the
9 closure of a public or private school, a day care center, or an elder care facility.

10 Based on an agency's operational needs, a supervisor may excuse a mandatory employee if
11 they are a parent (or guardian) who is required to stay home with underage children because of
12 the closure of a day care facility, public or private school, or elder care facility.

13 If operational needs change, a mandatory employee may be required to return to work, but
14 only for documented compelling reasons that will not jeopardize the health and safety of the
15 mandatory employee. Management's discretion or convenience is not a compelling reason when
16 the employee has been advised by a health care provider to quarantine due to exposure to a
17 communicable disease. The advice to quarantine must be documented and based upon the health
18 care provider's belief that the employee has the communicable disease, may have been exposed
19 to the communicable disease, or is particularly vulnerable to the communicable disease.

20 Each State agency shall maintain a list of mandatory employees by position, including current
21 employee name and contact information. The agency head shall develop an alternative plan for
22 personnel in case the designated personnel are unable to work. Alternative workers may include
23 current employees who are not designated as mandatory but who possess the skills to fill in for
24 mandatory employees, retirees, contract workers, or other temporary employees. Employees
25 designated as mandatory personnel shall be notified of such designation and the requirement to
26 report for, or remain at, work in emergency situations.

27 If mandatory personnel are required to remain at the work site for an extended period of time,
28 the agency or university must provide adequate housing and food. If an employee remains on the
29 employer's premises for 24 hours a day, the employee shall be eligible for extra hazard duty pay
30 as appropriate and may be entitled to receive pay for all those hours depending on the situation.
31 Employees shall have a normal night's sleep and ample eating time and this time is not considered
32 as hours worked. At a minimum, the sleep allowance is for eight hours of sleep and the meal
33 period is for three hours.

34 (f) Hazard Pay/Compensatory Time. – When an agency is closed or when management
35 determines that only mandatory employees are required to report to a specific work site
36 (particularly when all other employees are restricted from coming into the workplace), the
37 mandatory employees shall be granted hazard pay of at least 1.5 or an equivalent ratio in
38 compensatory time for hours worked onsite up to 40 hours in a work week. It is the agency head's
39 discretion to determine any other appropriate compensation options based on the availability of
40 funds, operational needs of the agency, and in consideration of the duties being performed.
41 Compensatory time must be used within 24 months of it being awarded, or it will expire.
42 Agencies shall make every effort to give employees the opportunity to take this time off.
43 Compensatory time earned during a public health emergency is not paid out at expiration or upon

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1 separation and does not transfer to another State agency. This provision applies to all designated
2 mandatory employees, both exempt and nonexempt, under the Fair Labor Standards Act (FLSA).

3 (g) Discipline and Appeals. – Individuals designated as mandatory employees may be
4 subject to disciplinary action, up to and including termination of employment, for willful failure
5 to report for or remain at work. Each situation will be reviewed on a case-by-case basis to
6 determine appropriate action. A mandatory employee may appeal the denial of an exemption,
7 any disciplinary action under this section, or both, pursuant to G.S. 126-34.02.

8 (h) Applicability. – This section applies to all State employees, whether or not they are
9 exempt or nonexempt from the provisions of this Chapter."

10 SECTION 7.2.(a) G.S. 126-8 reads as rewritten:

11 "§ 126-8. Minimum leave granted State employees.

12 ~~The~~ Except as otherwise authorized by G.S. 126-8.6(f), the amount of vacation leave granted
13 to each full-time State employee subject to the provisions of this Chapter shall be determined in
14 accordance with a graduated scale established by the State Human Resources Commission which
15 shall allow the equivalent rate of not less than two weeks' vacation per calendar year, prorated
16 monthly, cumulative to at least 30 days. On December 31 of each year, any State employee who
17 has vacation leave in excess of the allowed accumulation shall have that leave converted to sick
18 leave. Sick leave allowed as needed to such State employees shall be at a rate not less than 10
19 days for each calendar year, cumulative from year to year. Notwithstanding any other provisions
20 of this section, no full-time State employee subject to the provisions of Chapter 126, as the same
21 appears in the Cumulative Supplement to Volume 3B of the General Statutes, on May 23, 1973,
22 shall be allowed less than the equivalent of three weeks' vacation per calendar year, cumulative
23 to at least 30 days."

24 SECTION 7.2.(b) G.S. 126-34.02(b) is amended by adding a new subdivision to
25 read:

26 "(b) The following issues may be heard as contested cases after completion of the agency
27 grievance procedure and the Office of State Human Resources review:

28 ...
29 (7) Treatment of mandatory employees. – A mandatory employee may appeal the
30 denial of an exemption, the adequacy of the amount of hazard pay, and any

31 SECTION 7.3.(a) The State Controller shall transfer the sum of five million dollars
32 (\$5,000,000) for the 2020-2021 fiscal year from the Coronavirus Relief Reserve created in
33 Section 2.1 of S.L. 2020-4 to the Coronavirus Relief Fund established in Section 2.2 of that act.

34 SECTION 7.3(b) There is appropriated from the Coronavirus Relief Fund to the
35 Office of State Budget and Management the sum of five million dollars (\$5,000,000) for the
36 2020-2021 fiscal year to fund mandatory employee hazard pay and otherwise implement the
37 provisions of this act.

38 SECTION 7.3.(c) These funds shall be expended only as allowed under the federal
39 Coronavirus Aid, Relief, and Economic Security (CARES) Act, P.L. 116-136 and the official
40 guidance issued by the U.S. Department of the Treasury."

41
42 and further moves to amend the bill on page 3, line 4, by changing "SECTION 7." to
43 "SECTION 8."

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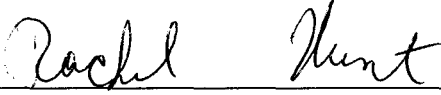
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SIGNED 
Amendment Sponsor

SIGNED _____
Committee Chair if Senate Committee Amendment

ADOPTED _____ FAILED _____ TABLED _____