

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SECOND EXTRA SESSION 2016**

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**HOUSE BILL 2  
Second Edition Engrossed 3/23/16**

Short Title: Public Facilities Privacy & Security Act. (Public)

Sponsors: Representatives Bishop, Stam, Howard, and Steinburg (Primary Sponsors).  
*For a complete list of sponsors, refer to the North Carolina General Assembly web site.*

Referred to:

March 23, 2016

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE FOR SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND  
3 CHANGING FACILITIES IN SCHOOLS AND PUBLIC AGENCIES AND TO CREATE  
4 STATEWIDE CONSISTENCY IN REGULATION OF EMPLOYMENT AND PUBLIC  
5 ACCOMMODATIONS.

6 Whereas, the North Carolina Constitution directs the General Assembly to provide for  
7 the organization and government of all cities and counties and to give cities and counties such  
8 powers and duties as the General Assembly deems advisable in Section 1 of Article VII of the  
9 North Carolina Constitution; and

10 Whereas, the North Carolina Constitution reflects the importance of statewide laws  
11 related to commerce by prohibiting the General Assembly from enacting local acts regulating  
12 labor, trade, mining, or manufacturing in Section 24 of Article II of the North Carolina  
13 Constitution; and

14 Whereas, the General Assembly finds that laws and obligations consistent statewide for  
15 all businesses, organizations, and employers doing business in the State will improve intrastate  
16 commerce; and

17 Whereas, the General Assembly finds that laws and obligations consistent statewide for  
18 all businesses, organizations, and employers doing business in the State benefit the businesses,  
19 organizations, and employers seeking to do business in the State and attracts new businesses,  
20 organizations, and employers to the State; Now, therefore,  
21 The General Assembly of North Carolina enacts:

22  
23 **PART I. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING**  
24 **FACILITIES**

25 **SECTION 1.1.** G.S. 115C-47 is amended by adding a new subdivision to read:

26 "(63) To Establish Single-Sex Multiple Occupancy Bathroom and Changing  
27 Facilities. – Local boards of education shall establish single-sex multiple  
28 occupancy bathroom and changing facilities as provided in G.S. 115C-521.2."

29 **SECTION 1.2.** Article 37 of Chapter 115C of the General Statutes is amended by  
30 adding a new section to read:

31 "§ 115C-521.2. Single-sex multiple occupancy bathroom and changing facilities.

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

33 (1) Biological sex. – The physical condition of being male or female, which is  
34 stated on a person's birth certificate.



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1 d. "Public authority" as defined in G.S. 159-7(b)(10).

2 e. A local board of education.

3 f. The judicial branch.

4 g. The legislative branch.

5 h. Any other political subdivision of the State.

6 (5) Single occupancy bathroom or changing facility. – A facility designed or  
7 designated to be used by only one person at a time where persons may be in  
8 various states of undress. A single occupancy bathroom or changing facility  
9 may include, but is not limited to, a single stall restroom designated as unisex  
10 or for use based on biological sex.

11 (b) Single-Sex Multiple Occupancy Bathroom and Changing Facilities. – Public agencies  
12 shall require every multiple occupancy bathroom or changing facility to be designated for and only  
13 used by persons based on their biological sex.

14 (c) Accommodations Permitted. – Nothing in this section shall prohibit public agencies  
15 from providing accommodations such as single occupancy bathroom or changing facilities upon a  
16 person's request due to special circumstances, but in no event shall that accommodation result in  
17 the public agency allowing a person to use a multiple occupancy bathroom or changing facility  
18 designated under subsection (b) of this section for a sex other than the person's biological sex.

19 (d) Exceptions. – This section does not apply to persons entering a multiple occupancy  
20 bathroom or changing facility designated for use by the opposite sex:

21 (1) For custodial purposes.

22 (2) For maintenance or inspection purposes.

23 (3) To render medical assistance.

24 (4) To accompany a person needing assistance.

25 (4a) For a minor under the age of seven who accompanies a person caring for that  
26 minor.

27 (5) That has been temporarily designated for use by that person's biological sex."

## 29 **PART II. STATEWIDE CONSISTENCY IN LAWS RELATED TO EMPLOYMENT AND** 30 **CONTRACTING**

31 **SECTION 2.1.** G.S. 95-25.1 reads as rewritten:

32 **"§ 95-25.1. Short title and legislative ~~purpose~~; purpose; local governments preempted.**

33 (a) This Article shall be known and may be cited as the "Wage and Hour Act."

34 (b) The public policy of this State is declared as follows: The wage levels of employees,  
35 hours of labor, payment of earned wages, and the well-being of minors are subjects of concern  
36 requiring legislation to promote the general welfare of the people of the State without jeopardizing  
37 the competitive position of North Carolina business and industry. The General Assembly declares  
38 that the general welfare of the State requires the enactment of this law under the police power of  
39 the State.

40 (c) The provisions of this Article supersede and preempt any ordinance, regulation,  
41 resolution, or policy adopted or imposed by a unit of local government or other political  
42 subdivision of the State that regulates or imposes any requirement upon an employer pertaining to  
43 compensation of employees, such as the wage levels of employees, hours of labor, payment of  
44 earned wages, benefits, leave, or well-being of minors in the workforce. This subsection shall not  
45 apply to any of the following:

46 (1) A local government regulating, compensating, or controlling its own  
47 employees.

48 (2) Economic development incentives awarded under Chapter 143B of the General  
49 Statutes.

50 (3) Economic development incentives awarded under Article 1 of Chapter 158 of  
51 the General Statutes.

1           (4) A requirement of federal community development block grants.

2           (5) Programs established under G.S. 153A-376 or G.S. 160A-456."

3           **SECTION 2.2.** G.S. 153A-449(a) reads as rewritten:

4           "(a) Authority. – A county may contract with and appropriate money to any person,  
5 association, or corporation, in order to carry out any public purpose that the county is authorized  
6 by law to engage in. A county may not require a private contractor under this section to abide by  
7 ~~any restriction that the county could not impose on all employers in the county, such as paying~~  
8 ~~minimum wage or providing paid sick leave to its employees, regulations or controls on the~~  
9 ~~contractor's employment practices or mandate or prohibit the provision of goods, services, or~~  
10 ~~accommodations to any member of the public as a condition of bidding on a ~~contract~~ contract or a~~  
11 ~~qualification-based selection, except as otherwise required or allowed by State law."~~

12           **SECTION 2.3.** G.S. 160A-20.1(a) reads as rewritten:

13           "(a) Authority. – A city may contract with and appropriate money to any person,  
14 association, or corporation, in order to carry out any public purpose that the city is authorized by  
15 law to engage in. A city may not require a private contractor under this section to abide by ~~any~~  
16 ~~restriction that the city could not impose on all employers in the city, such as paying minimum~~  
17 ~~wage or providing paid sick leave to its employees, regulations or controls on the contractor's~~  
18 ~~employment practices or mandate or prohibit the provision of goods, services, or accommodations~~  
19 ~~to any member of the public as a condition of bidding on a ~~contract~~ contract or a~~  
20 ~~qualification-based selection, except as otherwise required or allowed by State law."~~

## 21 22 **PART III. PROTECTION OF RIGHTS IN EMPLOYMENT AND PUBLIC** 23 **ACCOMMODATIONS**

24           **SECTION 3.1.** G.S. 143-422.2 reads as rewritten:

25           "**§ 143-422.2. Legislative declaration.**

26           (a) It is the public policy of this State to protect and safeguard the right and opportunity of  
27 all persons to seek, obtain and hold employment without discrimination or abridgement on  
28 account of race, religion, color, national origin, age, biological sex or handicap by employers  
29 which regularly employ 15 or more employees.

30           (b) It is recognized that the practice of denying employment opportunity and  
31 discriminating in the terms of employment foments domestic strife and unrest, deprives the State  
32 of the fullest utilization of its capacities for advancement and development, and substantially and  
33 adversely affects the interests of employees, employers, and the public in general.

34           (c) The General Assembly declares that the regulation of discriminatory practices in  
35 employment is properly an issue of general, statewide concern, such that this Article and other  
36 applicable provisions of the General Statutes supersede and preempt any ordinance, regulation,  
37 resolution, or policy adopted or imposed by a unit of local government or other political  
38 subdivision of the State that regulates or imposes any requirement upon an employer pertaining to  
39 the regulation of discriminatory practices in employment, except such regulations applicable to  
40 personnel employed by that body that are not otherwise in conflict with State law."

41           **SECTION 3.2.** G.S. 143-422.3 reads as rewritten:

42           "**§ 143-422.3. Investigations; conciliations.**

43           The Human Relations Commission in the Department of Administration shall have the  
44 authority to receive charges of discrimination from the Equal Employment Opportunity  
45 Commission pursuant to an agreement under Section 709(b) of Public Law 88-352, as amended by  
46 Public Law 92-261, and investigate and conciliate charges of discrimination. Throughout this  
47 process, the agency shall use its good offices to effect an amicable resolution of the charges of  
48 discrimination. This Article does not create, and shall not be construed to create or support, a  
49 statutory or common law private right of action, and no person may bring any civil action based  
50 upon the public policy expressed herein."

