A BILL TO BE ENTITLED
AN ACT AMENDING THE NORTH CAROLINA CONSTITUTION TO GUARANTEE
THE RIGHT OF AN INDIVIDUAL TO WORK, TO MAKE ANY CONTRACT
BETWEEN A STATE OR LOCAL GOVERNMENTAL ENTITY AND A LABOR
ORGANIZATION AS BARGAINING AGENT CONCERNING GOVERNMENT
EMPLOYEES ILLEGAL, AND TO PRESERVE THE RIGHT OF AN INDIVIDUAL TO
VOTE BY SECRET BALLOT FOR AN ELECTION, DESIGNATION, OR
AUTHORIZATION FOR EMPLOYEE REPRESENTATION BY A LABOR
ORGANIZATION.

The General Assembly of North Carolina enacts:

PART I. GUARANTEE RIGHT TO WORK

SECTION 1.1. Article I of the North Carolina Constitution is amended by adding a
new section to read:

"Sec. 38. Right to Work.
(1) The right to live includes the right to work. The exercise of the right to work must
be protected and maintained free from undue restraints and coercion. It is hereby declared to be
the public policy of North Carolina that the right of persons to work shall not be denied or
abridged on account of membership or nonmembership in a labor organization.
(2) The term "labor organization" as used in this section means any trade union, labor
union, or other labor association."

SECTION 1.2. The amendment set out in Section 1.1 of this act shall be submitted
to the qualified voters of the State in October 2013, which election shall be conducted under the
laws then governing elections in the State. Ballots, voting systems, or both may be used in
accordance with Chapter 163 of the General Statutes. The question to be used in the voting
systems and ballots shall be:

"[ ] FOR [ ] AGAINST
Constitutional amendment to provide that the right to live includes the right to work
and therefore the right of persons to work shall not be denied or abridged on account of
membership or nonmembership in any labor organization."

SECTION 1.3. If a majority of votes cast on the question are in favor of the
amendment set out in Section 1.1 of this act, the State Board of Elections shall certify the
amendment to the Secretary of State. The Secretary of State shall enroll the amendment so
certified among the permanent records of that office.
SECTION 1.4. The amendment set out in Section 1.1 of this act is effective upon certification.

PART II. NO PUBLIC EMPLOYEE COLLECTIVE BARGAINING

SECTION 2.1. Article I of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 39. Certain contracts between State and local governmental entities and labor organizations concerning government employees declared to be illegal.

(1) Any agreement or contract between a State or local governmental entity and any labor organization as a bargaining agent for government employees is hereby declared to be against the public policy of the State and therefore is illegal and of no effect.

(2) The phrase "State or local governmental entity" as used in this section means (i) any agency, department, or institution of the legislative, executive, or judicial branches of government; (ii) any local political subdivision of the State; and (iii) a local board of education or a public institution of higher learning."

SECTION 2.2. The amendment set out in Section 2.1 of this act shall be submitted to the qualified voters of the State in October 2013, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment providing that any agreement or contract between a State or local governmental entity and a labor organization as bargaining agent for government employees is illegal and of no effect."

SECTION 2.3. If a majority of votes cast on the question are in favor of the amendment set out in Section 2.1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

SECTION 2.4. The amendment set out in Section 2.1 of this act is effective upon certification.

PART III. PRESERVE RIGHT TO SECRET BALLOT ON EMPLOYEE REPRESENTATION

SECTION 3.1. Article I of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 40. Secret ballot on employee representation.

(1) The fundamental right of an individual to vote by secret ballot for employee representation by a labor organization shall be guaranteed where State or federal law permits or requires elections, designations, or authorizations for employee representation by a labor organization.

(2) The term "labor organization" as used in this section means a trade union, labor union, or labor association."

SECTION 3.2. The amendment set out in Section 3.1 of this act shall be submitted to the qualified voters of the State in October 2013, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[ ] FOR [ ] AGAINST

Constitutional amendment providing that the fundamental right of an individual to vote by secret ballot for employee representation by a labor organization shall be guaranteed..."
where State or federal law permits or requires election, designation, or an authorization for employee representation by a labor organization."

SECTION 3.3. If a majority of votes cast on the question are in favor of the amendment set out in Section 3.1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office.

SECTION 3.4. The amendment set out in Section 3.1 of this act is effective upon certification.

PART IV. CONFORMING STATUTORY CHANGES

SECTION 4. (a) If the qualified voters approve the constitutional amendment set forth in Part I of this act, then Article 10 of Chapter 95 of the General Statutes reads as rewritten:

"Article 10.

§ 95-78. Declaration of public policy.

(a) The right to live includes the right to work. The exercise of the right to work must be protected and maintained free from undue restraints and coercion. It is hereby declared to be the public policy of North Carolina that the right of persons to work shall not be denied or abridged on account of membership or nonmembership in any labor union or labor organization or association organization.

(b) The term "labor organization" as used in this Article means any trade union, labor union, or other labor association.


Any agreement or combination between any employer and any labor union or labor organization whereby persons not members of such union or the labor organization shall be denied the right to work for said the employer, or whereby such membership is made a condition of employment or continuation of employment by such the employer, or whereby any such union or organization acquires an employment monopoly in any enterprise, is hereby declared to be against the public policy and an illegal combination or conspiracy in restraint of trade or commerce in the State of North Carolina.

§ 95-80. Membership in labor organization as condition of employment prohibited.

No person shall be required by an employer to become or remain a member of any labor union or labor organization as a condition of employment or continuation of employment by such employer.

§ 95-81. Nonmembership as condition of employment prohibited.

No person shall be required by an employer to abstain or refrain from membership in any labor union or labor organization as a condition of employment or continuation of employment.

§ 95-82. Payment of dues as condition of employment prohibited.

No employer shall require any person, as a condition of employment or continuation of employment, to pay any dues, fees, or other charges of any kind to any labor union or labor organization.

§ 95-83. Recovery of damages by persons denied employment.

Any person who may be denied employment or be deprived of continuation of his the person's employment in violation of G.S. 95-80, 95-81 and 95-82 or of one or more of such sections, shall be entitled to recover from such the employer and from any other person, firm, corporation, or association acting in concert with him the employer by appropriate action in the courts of this State such damages as he the person may have sustained by reason of such denial or deprivation of employment.

§ 95-84. Application of Article.
The provisions of this Article shall do not apply to any lawful contract in force on the effective date hereof but they shall apply in all respects to contracts entered into thereafter and to any renewal or extension of any existing contract."

SECTION 4.(b)  If the qualified voters approve the constitutional amendment set forth in Part II of this act, then Article 11 of Chapter 95 of the General Statutes reads as rewritten:

"§ 95-98. Contracts between units of government and labor unions, trade unions or certain contracts between State and local governmental entities and labor organizations concerning public government employees declared to be illegal.

(a) Any agreement, or contract, between the governing authority of any city, town, county, or other municipality, or between any agency, unit, or instrumentality thereof, or between any agency, instrumentality, or institution of the State of North Carolina, and any labor union, trade union, or a State or local governmental entity and a labor organization, as bargaining agent for any public employees of such city, town, county or other municipality, or agency or instrumentality of government, the entity is hereby declared to be against the public policy of the State, illegal, unlawful, void and of no effect.

(b) The following definitions apply in this Article:

(1) Labor organization. — Any trade union, labor union, or other labor association the purpose of which includes serving as a bargaining agent for collective bargaining on the behalf of employees in this State.

(2) State or local governmental entity. — (i) Any agency, department, or institution of the legislative, executive, or judicial branches of government; (ii) any local political subdivision of the State; and (iii) a local board of education or a public institution of higher learning.

"§ 95-98.1. Strikes by public government employees prohibited.

Strikes by public government employees are hereby declared illegal and against the public policy of this State. No person holding a position either full- or part-time by appointment or employment with the State of North Carolina or in any county, city, town or other political subdivision of the State of North Carolina, or in any agency of any of them, a State or local governmental entity shall willfully participate in a strike by public government employees.

"§ 95-98.2. Strike defined.

The word "strike" as used herein shall mean a cessation or deliberate slowing down of work by a combination of persons as a means of enforcing compliance with a demand upon the employer, but shall not include protected activity under Article 16 of this Chapter: Provided, however, that nothing herein shall limit or impair the right of any public-government employee to express or communicate a complaint or opinion on any matter related to the conditions of public government employment so long as the same is not designed to and does not interfere with the full, faithful, and proper performance of the duties of employment.


Any violation of the provisions of this Article is hereby declared to be a Class 1 misdemeanor.

"§ 95-100. No provisions of Article 10 of Chapter 95 applicable to units of government, State or local governmental entities or their employees.

The provisions of Article 10 of Chapter 95 of the General Statutes do not apply to State or local governmental entities, shall not apply to the State of North Carolina or any agency, institution, or instrumentality thereof or the employees of same nor shall the provisions of Article 10 of Chapter 95 of the General Statutes apply to any public employees or any employees of any town, city, county or other municipality or the agencies or instrumentalities thereof, nor shall said Article apply to employees of the State or any agencies, instrumentalities or institutions thereof or to any public employees whatsoever."
PART V. EFFECTIVE DATE

SECTION 5. This act is effective when it becomes law.