

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 744

Short Title: Technical Corrections in State Auditor's Duties. (Public)

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Sponsors: Senators Sherron; and Carpenter.

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Referred to: State Personnel and State Government.

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April 8, 1993

A BILL TO BE ENTITLED

AN ACT TO AMEND VARIOUS STATUTES TO DELETE OBSOLETE REFERENCES TO WARRANTS ISSUED BY THE STATE AUDITOR, TO MAKE TECHNICAL CORRECTIONS IN REFERENCES TO THE STATE AUDITOR'S OVERSIGHT, AND TO REPEAL CHAPTER 112 OF THE GENERAL STATUTES CONFEDERATE HOMES AND PENSIONS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 43-51 reads as rewritten:

**"§ 43-51. Satisfaction by third person or by Treasurer.**

If there are defendants other than the State Treasurer, and judgment is rendered in favor of the plaintiff and against the Treasurer and some or all of the other defendants, execution shall first be issued against the other defendants, and if such execution is returned unsatisfied in whole or in part, and the officer returning the same shall certify that it cannot be collected from the property and effects of the other defendants, or if the judgment be against the Treasurer only, the clerk of the court shall certify the amount due on the execution to the State Auditor, who shall issue his warrant therefor upon the State Treasurer, and the same shall be paid. In all such cases the Treasurer may employ counsel who shall receive reasonable compensation for his services from the assurance fund."

Sec. 2. G.S. 53-134 reads as rewritten:

**"§ 53-134. Offenses declared misdemeanors; prosecution; employment of counsel; punishment.**

Any offense against the banking laws of the State of North Carolina which is not elsewhere specifically declared to be a crime, or for which elsewhere a penalty is not

1 specifically provided, is hereby declared to be a misdemeanor, and shall be punishable  
2 at the discretion of the court. The Commissioner of Banks is authorized and directed to  
3 prosecute all offenses against the banking laws of the State, and to that end is expressly  
4 authorized to employ counsel to prosecute in the inferior courts and to aid the district  
5 attorney in the superior courts. ~~The Auditor of the State shall, upon the certificate of the~~  
6 ~~Commissioner of Banks, Banks shall accompanied by an itemized statement of the~~  
7 ~~account, draw his warrant upon the State Treasurer to compensate the counsel so~~  
8 ~~employed, and the State Treasurer shall pay the same out of the funds in the treasury~~  
9 ~~and not otherwise appropriated."~~

10 Sec. 3. G.S. 58-88-15 reads as rewritten:

11 **"§ 58-88-15. Accounting; reports; audits.**

12 The Board shall keep a correct account of all monies received and disbursed by the  
13 Board; and shall annually file a report with the Commissioner of Insurance at such time  
14 and in such form prescribed by the Commissioner of Insurance and the State Auditor.  
15 The Board shall be bonded by the sum of any money total for which it is responsible.  
16 ~~The State Auditor shall annually conduct an audit of the Fund and the Board's~~  
17 ~~administration of the Fund. The books, records, and operations of the board shall be~~  
18 ~~subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of~~  
19 ~~the General Statutes."~~

20 Sec. 4. G.S. 90-171.25 reads as rewritten:

21 **"§ 90-171.25. Custody and use of funds.**

22 The executive director shall deposit in financial institutions designated by the Board  
23 as official depositories all fees payable to the Board. The funds shall be deposited in the  
24 name of the Board and shall be used to pay all expenses incurred by the Board in  
25 carrying out the purposes of this Article. ~~Such funds shall be annually audited by the~~  
26 ~~State Auditor."~~

27 Sec. 5. G.S. 90-270.18 reads as rewritten:

28 **"§ 90-270.18. Disposition of fees.**

29 All fees derived from the operation of this Article shall be deposited with the State  
30 Treasurer to the credit of a revolving fund for the use of the Board in carrying out its  
31 functions. ~~The financial records of the Board shall be subjected to an annual audit,~~  
32 ~~supervised by the State Auditor, and paid for out of the funds of the Board."~~

33 Sec. 6. G.S. 90C-7 reads as rewritten:

34 **"§ 90C-7. Executive Director.**

35 The Executive Director shall deposit all fees payable to the Board in financial  
36 institutions designated by the Board as official depositories. The funds shall be  
37 deposited in the name of the Board and shall be used to pay all expenses incurred by the  
38 Board in carrying out the purposes of this Chapter. ~~The Board shall be audited annually~~  
39 ~~by the State Auditor."~~

40 Sec. 7. G. S. 105-164.41 reads as rewritten:

41 **"§ 105-164.41. Excess payments; refunds.**

42 If upon examination of any return made under this Article, it appears that an amount  
43 of tax has been paid in excess of that properly due, then the amount in excess shall be  
44 credited against any tax or installment thereof then due from the taxpayer, under any

1 other subsequent return, or shall be refunded to the taxpayer ~~by certificate of~~  
2 ~~overpayment issued by the Secretary to the State Auditor, and the Auditor shall issue his~~  
3 ~~warrant on the Treasurer, which warrant shall be payable out of any funds appropriated~~  
4 for that purpose."

5 Sec. 8. G.S. 111-18 reads as rewritten:

6 **"§ 111-18. Payment of awards.**

7 After an award to a blind person has been made by the board of county  
8 commissioners, and approved by the Department of Human Resources the Department  
9 of Human Resources shall thereafter pay to such person to whom such award is made  
10 the amount of said award in monthly payments, or in such manner and under such terms  
11 as the Department of Human Resources shall determine. Such payment shall be ~~made~~  
12 ~~by warrant of the State Auditor,~~ drawn upon such funds in the hands of the State  
13 Treasurer, at the instance and request and upon a proper voucher signed by the  
14 Secretary of Human Resources, and shall not be subject to the provisions of the  
15 Executive Budget Act as to approval of said expenditure.

16 It is intended that awards paid to recipients under this Article be for the purpose of  
17 assisting in defraying the recipient's day-to-day living expenses. To better achieve this  
18 purpose it is hereby provided that no moneys belonging to a recipient of aid to the blind  
19 under this Article identifiable as moneys paid pursuant to an aid to the blind award shall  
20 be subject to levy under execution, attachment or garnishment."

21 Sec. 9. G.S. 111-27.1 reads as rewritten:

22 **"§ 111-27.1. Department of Human Resources authorized to conduct certain**  
23 **business operations.**

24 For the purpose of assisting blind persons to become self- supporting the Department  
25 of Human Resources is hereby authorized to carry on activities to promote the  
26 rehabilitation and employment of the blind, including the operation of various business  
27 enterprises suitable for the blind to be employed in or to operate. The Executive Budget  
28 Act shall apply to the operation of such enterprises as to all appropriations made by the  
29 State to aid in the organization and the establishment of such businesses. Purchases and  
30 sales of merchandise or equipment, the payment of rents and wages to blind persons  
31 operating such businesses, and other expenses thereof, from funds derived from local  
32 subscriptions and from the day-by-day operations shall not be subject to the provisions  
33 of law regulating purchases and contracts, or to the deposit and disbursement thereof  
34 applicable to State funds but shall be supervised by the Department of Human  
35 Resources. All of the business operations under this law, however, shall be subject to  
36 ~~regular audits by the oversight of the State Auditor pursuant to Article 5A of Chapter~~  
37 147 of the General Statutes.

38 After September 30, 1983, Randolph-Sheppard vendors will no longer be State  
39 employees. Blind licensees operating vending facilities under contract with the North  
40 Carolina Department of Human Resources, Division of Services for the Blind, are  
41 independent contractors."

42 Sec. 10. Chapter 112 of the General Statutes, being G.S. 112-5 through G.S.  
43 112-37, is repealed.

44 Sec. 11. G.S. 115C-133 reads as rewritten:

1 **"§ 115C-133. When clothing, etc., for pupils paid for by county.**

2 Where it shall appear to the satisfaction of the director of social services and the  
3 chairman of the board of county commissioners of any county in this State that the  
4 parents of any blind child residing in such county are then unable to provide such child  
5 with clothing or traveling expenses or both to and from the Governor Morehead School,  
6 or where such child has no living parent, or any estate of his own, or any person, or  
7 persons, upon which he is legally dependent who are able to provide expenses for such  
8 transportation and clothing, then upon the demand of the institution which such child  
9 attends or has been accepted for attendance, ~~said demand being made through the State~~  
10 ~~Auditor,~~ the board of county commissioners of the county in which such child resides  
11 shall ~~issue or cause to be issued its warrant payable to the State Auditor, same to be~~  
12 ~~credited pay~~ to the proper institution, for the payment of institution an amount sufficient  
13 to clothe and pay traveling expenses of said child."

14 Sec. 12. G.S. 127A-106 reads as rewritten:

15 **"§ 127A-106. Paid by the State.**

16 When the militia or any portion thereof shall be ordered by the Governor into State  
17 service, the pay, subsistence, transportation and other necessary expenses incident  
18 thereto shall be paid by the State Treasurer, upon the approval of the Governor ~~and~~  
19 ~~warrant of the auditor."~~

20 Sec. 13. G.S. 135-8(f) reads as rewritten:

21 "(f) Collection of Contributions.

22 (1) The collection of members' contributions shall be as follows:

- 23 a. Each employer shall cause to be deducted on each and every  
24 payroll of a member for each and every payroll subsequent to  
25 the date of establishment of the Retirement System the  
26 contributions payable by such member as provided in this  
27 Chapter, and the employer shall draw his warrant for the  
28 amount so deducted, payable to the Teachers' and State  
29 Employees' Retirement System of North Carolina, and shall  
30 transmit the same, together with schedule of the contributions,  
31 on such forms as prescribed.

32 (2) The collection of employers' contributions shall be made as follows:

- 33 a. Upon the basis of each actuarial valuation provided herein there  
34 shall be prepared biennially and certified to the Department of  
35 Administration a statement of the total amount necessary for the  
36 ensuing biennium to the pension accumulation and expense  
37 funds, as provided under subsections (d) and (f) of this section,  
38 and these funds shall be handled and disbursed in accordance  
39 with Chapter 100, Public Laws of 1929, and amendments  
40 thereto (G.S. 143-1 **et seq.**), known as the Executive Budget  
41 Act.  
42 b. Until the first valuation has been made and the rates computed  
43 as provided in subsection (d) of this section, the amount payable  
44 by employers on account of the normal and accrued liability

- 1 contributions shall be five and fifty-one one-hundredths percent  
 2 (5.51%) of the payroll of all teachers and three and sixteen one-  
 3 hundredths percent (3.16%) for other State employees.
- 4 e. ~~The auditor shall issue his warrant to the State Treasurer~~  
 5 ~~directing the State Treasurer to pay this sum to the Board of~~  
 6 ~~Trustees, from the appropriations for the Teachers' and State~~  
 7 ~~Employees' Retirement System.~~
- 8 d. Each board of education in each county and each board of  
 9 education in each city in which teachers or other employees of  
 10 the schools receive compensation for services in the public  
 11 schools from sources other than the appropriation of the State of  
 12 North Carolina shall pay the Board of Trustees of the State  
 13 Retirement System such rate of their respective salaries as are  
 14 paid those of other employees.
- 15 e. Each employer shall transmit monthly to the State Retirement  
 16 System on account of each employee, who is a member of this  
 17 System, an amount sufficient to cover the normal contribution  
 18 and the accrued liability contribution of each member employed  
 19 by such employer for the preceding month.
- 20 (3) If within 90 days after request therefor by the Board any employer  
 21 shall not have provided the System with the records and other  
 22 information required hereunder or if the full accrued amount of the  
 23 contributions provided for under this section due from members  
 24 employed by an employer or from an employer other than the State  
 25 shall not have been received by the System from the chief fiscal officer  
 26 of such employer within 30 days after the last due date as herein  
 27 provided, then, notwithstanding anything herein or in the provisions of  
 28 any other law to the contrary, upon notification by the Board to the  
 29 State Treasurer as to the default of such employer as herein provided,  
 30 any distributions which might otherwise be made to such employer  
 31 from any funds of the State shall be withheld from such employer until  
 32 notice from the Board to the State Treasurer that such employer is no  
 33 longer in default."

34 Sec. 14. G.S. 143-247.2 reads as rewritten:

35 **"§ 143-247.2. Contributions for nongame wildlife.**

36 The Wildlife Resources Commission is hereby authorized to issue and sell  
 37 appropriate emblems by which to identify recipients thereof as contributors to a special  
 38 wildlife conservation fund which shall be held and accounted for as a separate part of  
 39 the Wildlife Resources Fund and which shall be made available to the Wildlife  
 40 Resources Commission for conservation, protection, enhancement, preservation and  
 41 perpetuation of nongame wildlife species and those species which may be endangered  
 42 or threatened with extinction. The special wildlife conservation fund ~~will be audited by~~  
 43 ~~the State Auditor.~~ is subject to the oversight of the State Auditor pursuant to Article 5A  
 44 of Chapter 147 of the General Statutes. Emblems of different size, shape, type or design

1 may be used to recognize contributions in different amounts, but no such emblem shall  
2 be issued for a contribution amounting in value to less than five dollars (\$5.00)."

3 Sec. 15. G.S. 143-250.1(f) reads as rewritten:

4 "(f) Expenditure of the income derived from the Wildlife Endowment Fund shall  
5 be made through the State budget accounts of the Wildlife Resources Commission in  
6 accordance with the provisions of the Executive Budget Act. The Wildlife Endowment  
7 Fund is subject to the oversight of the State Auditor pursuant to ~~G.S. 147-58. Article 5A~~  
8 of Chapter 147 of the General Statutes."

9 Sec. 16. G.S. 143B-289.8(f) reads as rewritten:

10 "(f) Expenditure of the income derived from the Marine Fisheries Endowment  
11 Fund shall be made through the State budget accounts of the Marine Fisheries  
12 Commission in accordance with the provisions of the Executive Budget Act. The  
13 Marine Fisheries Endowment Fund is subject to the oversight of the State Auditor  
14 pursuant to ~~G.S. 147-58. Article 5A of Chapter 147 of the General Statutes.~~"

15 Sec. 17. G.S. 143B-289.9(b) reads as rewritten:

16 "(b) The Marine Fisheries Commission is hereby authorized to issue and sell  
17 appropriate emblems by which to identify recipients thereof as contributors to a special  
18 marine and estuarine resources conservation fund which shall be made available to the  
19 Marine Fisheries Commission for conservation, protection, enhancement, preservation  
20 and perpetuation of marine and estuarine species which may be endangered or  
21 threatened with extinction and for education about these issues. The special  
22 conservation fund ~~will be audited by the State Auditor.~~ is subject to oversight of the  
23 State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. Emblems  
24 of different size, shape, type or design may be used to recognize contributions in  
25 different amounts, but no such emblem shall be issued for a contribution amounting in  
26 value to less than five dollars (\$5.00)."

27 Sec. 18. G.S. 148-29 reads as rewritten:

28 **"§ 148-29. Transportation of convicts to prison; sheriff's expense affidavit; State**  
29 **not liable for maintenance expenses until convict received.**

30 The sheriff having in charge any prisoner to be taken to the Central Prison at Raleigh  
31 shall send him to the Central Prison within five days after the adjournment of the court  
32 at which he was sentenced, if no appeal has been taken. The sheriff shall file with the  
33 board of commissioners of his county a copy of his affidavit as to necessary guard,  
34 together with a copy of his itemized account of expenses, both certified to by ~~the~~  
35 Auditor-him as true copies of those on file in his office. The State is not liable for the  
36 expenses of maintaining convicts until they have been received by the State Department  
37 of Correction authorities, nor shall any moneys be paid out of the treasury for support of  
38 convicts prior to such reception."

39 Sec. 19. G.S. 7A-343.1 reads as rewritten:

40 **"§ 7A-343.1. Distribution of copies of the appellate division reports.**

41 The Administrative Officer of the Courts shall, at the State's expense distribute such  
42 number of copies of the appellate division reports to federal, State departments and  
43 agencies, and to educational institutions of instruction, as follows:

44 Governor, Office of the

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1	Lieutenant Governor, Office of the	1
2	Secretary of State, Department of the	2
3	<u>State Auditor, Department of the</u>	<u>1</u>
4	Treasurer, Department of the State	1
5	Superintendent of Public Instruction	1
6	Office of the Attorney General	11
7	State Bureau of Investigation	1
8	Agriculture, Department of	1
9	Labor, Department of	1
10	Insurance, Department of	1
11	Budget Bureau, Department of Administration	1
12	Property Control, Department of Administration	1
13	State Planning, Department of Administration	1
14	Board of Environment, Health, and Natural Resources	1
15	Revenue, Department of	1
16	Board of Human Resources	1
17	Commission for the Blind	1
18	Board of Transportation	1
19	Motor Vehicles, Division of	1
20	Utilities Commission	8
21	Industrial Commission	11
22	Office of Administrative Hearings	2
23	Community Colleges, Department of	38
24	Employment Security Commission	1
25	Commission of Correction	1
26	Parole Commission	1
27	Archives and History, Division of	1
28	Crime Control and Public Safety, Department of	2
29	Department of Cultural Resources	3
30	Legislative Building Library	2
31	Justices of the Supreme Court	1 ea.
32	Judges of the Court of Appeals	1 ea.
33	Judges of the Superior Court	1 ea.
34	Clerks of the Superior Court	1 ea.
35	District Attorneys	1 ea.
36	Emergency and Special Judges of the Superior Court	1 ea.
37	Supreme Court Library	AS MANY AS REQUESTED
38	Appellate Division Reporter	1
39	University of North Carolina, Chapel Hill	71
40	University of North Carolina, Charlotte	1
41	University of North Carolina, Greensboro	1
42	University of North Carolina, Asheville	1
43	North Carolina State University, Raleigh	1
44	Appalachian State University	1

1	East Carolina University	1
2	Fayetteville State University	1
3	North Carolina Central University	17
4	Western Carolina University	1
5	Duke University	17
6	Davidson College	2
7	Wake Forest University	25
8	Lenoir Rhyne College	1
9	Elon College	1
10	Campbell College	25
11	Federal, Out-of-State and Foreign Secretary of State	1
12	Secretary of Defense	1
13	Secretary of Health, Education and Welfare	1
14	Secretary of Housing and Urban Development	1
15	Secretary of Transportation	1
16	Attorney General	1
17	Department of Justice	1
18	Internal Revenue Service	1
19	Veterans' Administration	1
20	Library of Congress	5
21	Federal Judges resident in North Carolina	1 ea.
22	Marshal of the United States Supreme Court	1
23	Federal District Attorneys resident in North Carolina	1 ea.
24	Federal Clerks of Court resident in North Carolina	1 ea.
25	Supreme Court Library exchange list	1 Each
26	justice of the Supreme Court and judge of the Court of Appeals shall receive for his	
27	private use, one complete and up-to-date set of the appellate division reports. The	
28	copies of reports furnished each justice or judge as set out in the table above may be	
29	retained by him personally to enable him to keep up-to-date his personal set of reports."	
30	Sec. 20. G.S. 159-34(c) reads as rewritten:	
31	"(c) Notwithstanding any other provision of law, except for <del>Article 5 of Chapter</del>	
32	<del>147 [Article 5A of Chapter 147]</del> <u>Article 5A of Chapter 147</u> of the General Statutes	
33	pertaining to the State Auditor, all State departments and agencies shall rely upon the	
34	single audit accepted by the secretary as the basis for compliance with applicable	
35	federal and State regulations. All State departments and agencies which provide funds	
36	to local governments and public authorities shall provide the Commission with	
37	documents approved by the State Auditor in a prescribed format describing standards of	
38	compliance and suggested audit procedures sufficient to give adequate direction to	
39	independent auditors retained by local governments and public authorities to conduct a	
40	single audit as required by this section. The secretary shall be responsible for the annual	
41	distribution of all such standards of compliance and suggested audit procedures	
42	proposed by State departments and agencies and any amendments thereto. Further, the	
43	Commission with the cooperation of all affected State departments and agencies shall be	
44	responsible for the following:	



- 1           (1) Procedures for the timely distribution of compliance standards  
2           developed by State departments and agencies, reviewed and approved  
3           by the State Auditor to auditors retained by local governments and  
4           public authorities.
- 5           (2) Procedures for the distribution of single audits for local governments  
6           and public authorities such that they are available to all State  
7           departments and agencies which provide funds to local units.
- 8           (3) The acceptance of single audits on behalf of all State departments and  
9           agencies; provided that, the secretary may subsequently revoke such  
10          acceptance for cause, whereupon affected State departments and  
11          agencies shall no longer rely upon such audit as the basis for  
12          compliance with applicable federal and State regulations."  
13          Sec. 21. This act is effective upon ratification.