

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 965
Judiciary II Committee Substitute Adopted 4/16/03

Short Title: Amend Constitution/Sch. Fines & Forfeitures.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"Sec. 7. County school fund.

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all ~~penalties and forfeitures and of all criminal penalties, criminal forfeitures, and criminal fines~~ collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools."

SECTION 2. Article IX of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 7A. Civil Penalty and Forfeiture Fund.

All monies belonging to the Civil Penalty and Forfeiture Fund and the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency shall belong to and remain in the Civil Penalty and Forfeiture Fund and shall be faithfully appropriated by the General Assembly to the counties and used exclusively for maintaining free public schools as provided by statute."

SECTION 3. G.S. 115C-437 reads as rewritten:

"§ 115C-437. Allocation of revenues to the local school administrative unit by the county.

Revenues accruing to the local school administrative unit by virtue of Article IX, Sec. 7, of the Constitution and taxes levied by or on behalf of the local school

1 administrative unit pursuant to a local act or G.S. 115C-501 to 115C-511 shall be
2 remitted to the school finance officer by the officer having custody thereof within 10
3 days after the close of the calendar month in which the revenues were received or
4 collected. The clear proceeds of all ~~penalties and forfeitures and of all criminal~~
5 penalties, criminal forfeitures, and criminal fines collected for any breach of the penal
6 laws of the State, as referred to in Article IX, Sec. 7 of the Constitution, shall include
7 the full amount of all criminal penalties, criminal forfeitures or criminal fines collected
8 under authority conferred by the State, diminished only by the actual costs of collection,
9 not to exceed ten percent (10%) of the amount collected. Revenues appropriated to the
10 local school administrative unit by the board of county commissioners from general
11 county revenues shall be made available to the school finance officer by ~~such~~
12 procedures as may be that are mutually agreeable to the board of education and the
13 board of county commissioners, but if no ~~such~~ agreement is reached, these funds shall
14 be remitted to the school finance officer by the county finance officer in monthly
15 installments sufficient to meet its lawful expenditures from the county appropriation
16 until the county appropriation to the local school administrative unit is exhausted. Each
17 installment shall be paid not later than 10 days after the close of each calendar month.
18 When revenue has been appropriated to the local school administrative unit by the board
19 of county commissioners from funds ~~which that~~ carry specific restrictions binding upon
20 the county as recipient, the board of commissioners ~~must~~ shall inform the local school
21 administrative unit in writing of those restrictions."

22 **SECTION 4.** G.S. 115C-457.1 reads as rewritten:

23 "**§ 115C-457.1. Creation of Fund; administration.**

24 (a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist
25 of the clear proceeds of all civil ~~penalties and civil forfeitures~~ penalties, civil forfeitures,
26 and civil fines that are collected by a State agency and are payable to the ~~County School~~
27 Fund-Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~ Section 7A of
28 the Constitution.

29 (b) The Fund shall be administered by the Office of State Budget and
30 Management. The Fund and all interest accruing to the Fund shall be faithfully used
31 exclusively for maintaining free public schools."

32 **SECTION 5.** G.S. 115C-457.2 reads as rewritten:

33 "**§ 115C-457.2. Remittance of ~~moneys~~ monies to the Fund.**

34 The clear proceeds of all civil ~~penalties and civil forfeitures~~ penalties, civil
35 forfeitures, and civil fines that are collected by a State agency and are payable to the
36 ~~County School Fund-Civil Penalty and Forfeiture Fund~~ pursuant to Article IX, Section 7
37 Section 7A of the Constitution shall be remitted to the Office of State Budget and
38 Management by the officer having custody of the funds within 10 days after the close of
39 the calendar month in which the revenues were received or collected. Notwithstanding
40 any other law, all funds which are civil penalties or civil forfeitures within the meaning
41 of Article IX, ~~Section 7~~ Section 7A of the Constitution shall be deposited in the Civil
42 Penalty and Forfeiture Fund. The clear proceeds of ~~such~~ these funds include the full
43 amount of all ~~such penalties and forfeitures~~ civil penalties, civil forfeitures, and civil

1 fines collected under authority conferred by the State, diminished only by the actual
2 costs of collection, not to exceed ten percent (10%) of the amount collected."

3 **SECTION 6.** The amendments set out in Section 1 and Section 2 of this act
4 shall be submitted to the qualified voters of the State at a statewide general election on
5 November 4, 2003, which election shall be conducted under the laws then governing
6 elections in the State. Ballots, voting systems, or both may be used in accordance with
7 Chapter 163 of the General Statutes. The question to be used in the voting systems and
8 ballots shall be:

9 FOR AGAINST

10 Constitutional amendments to provide that clear proceeds of all civil
11 penalties, civil forfeitures, and civil fines collected by a State agency are remitted to the
12 Civil Penalty and Forfeiture Fund and faithfully used exclusively for maintaining free
13 public schools as provided by statute."

14 **SECTION 7.** If a majority of votes cast on the question are in favor of the
15 amendments set out in Section 1 and Section 2 of this act, the State Board of Elections
16 shall certify the amendments to the Secretary of State. The Secretary of State shall
17 enroll the amendments so certified among the permanent records of that office. The
18 amendments set out in Section 1 and Section 2 of this act shall become effective July 1,
19 2004.

20 **SECTION 8.** Sections 3, 4, and 5 of this act become effective only if the
21 voters approve the constitutional amendments set out in Section 1 and Section 2 of this
22 act. If the voters approve the constitutional amendments, Sections 3, 4, and 5 of this act
23 shall become effective July 1, 2004.

24 **SECTION 9.** This act is effective when it becomes law.