

NORTH CAROLINA GENERAL ASSEMBLY
1979 SESSION

CHAPTER 864
HOUSE BILL 561

AN ACT TO REQUIRE THE REVIEW OF CLAIMS AND IMPOSITION OF PENALTIES
AGAINST STATE AND CERTAIN LOCAL EDUCATIONAL ENTITY EMPLOYEES,
NONSALARIED PUBLIC OFFICIALS, AND LEGISLATORS FOR FAILURE TO
REPAY MONEY OWED TO THE STATE.

The General Assembly of North Carolina enacts:

Section 1. Chapter 143 of the North Carolina General Statutes is hereby amended by adding thereto a new Article 59, to be entitled "State and Certain Local Educational Entity Employees, Nonsalaried Public Officials, and Legislators Required to Repay Money Owed to State" and to read as follows:

"Article 59.

"State and Certain Local Educational Entity Employees, Nonsalaried Public Officials, and Legislators Required to Repay Money Owed to State.

"Part 1.

"State and Local Educational Entity Employees.

"§ 143-540. **Definitions.** — As used in this Part:

- (1) 'Employing entity' means and includes:
 - a. any State entity enumerated in G.S. 143B-3 of the Executive Organization Act of 1973;
 - b. any city or county board of education under Chapter 115 of the General Statutes; or
 - c. any board of trustees of a community college or technical institute under Chapter 115A of the General Statutes.
- (2) 'Employee' means any person who is appointed to or hired and employed by an employing entity under this Part and whose salary is paid in whole or in part by State funds.
- (3) 'Net disposable earnings' means the salary paid to an employee by an employing entity after deduction of withholdings for taxes, social security, State retirement or any other sum obligated by law to be withheld.

"§ 143-541. **Conditional continuing employment; notification among employing entities; repayment election.** — (a) All persons employed by an employing entity as defined by this Part who owe money to the State and whose salaries are paid in whole or in part by State funds must make full restitution of the amount owed as a condition of continuing employment.

(b) Whenever a representative of any employing entity as defined by this Part has knowledge that an employee owes money to the State and is delinquent in satisfying this obligation, the representative shall notify the employing entity. Upon receipt of notification an employing entity shall terminate the employee's employment if after written notice of his right to do so he does not repay the money within a reasonable period of time; provided, however, that where there is a genuine dispute as to whether the money is owed or how much is owed, or there is an unresolved issue concerning insurance coverage, the employee shall not be dismissed as long as he is pursuing administrative or judicial remedies to have the dispute or the issue resolved.

(c) An employee of any employing entity who has elected in writing to allow not less than ten percent (10%) of his net disposable earnings to be periodically withheld for application towards a debt to the State shall be deemed to be repaying the money within a reasonable period of time and shall not have his employment terminated so long as he is consenting to repayment according to such terms. Furthermore, the employing entity shall allow the employee who for some extraordinary reason is incapable of repaying the obligation to the State according to the preceding terms to continue employment as long as he is attempting repayment in good faith under his present financial circumstances, but shall promptly terminate the employee's employment if he ceases to make payments or discontinues a good faith effort to make repayment.

"§ 143-542. Right of employee appeal. — (a) Any employee or former employee of an employing entity within the meaning of G.S. 143-540(1)a. whose employment is terminated pursuant to the provisions of this Part shall be given the opportunity to appeal the employment termination to the State Personnel Commission according to the normal appeal and hearing procedures provided by Chapter 126 and the State Personnel Commission rules adopted pursuant to the authority of that Chapter; however, nothing herein shall be construed to give the right to termination reviews to anyone exempt from that right under G.S. 126-5.

(b) Before the employment of an employee of a local board of education within the meaning of G.S. 143-540(1)b. who is either a superintendent, supervisor, principal, teacher or other professional person is terminated pursuant to this Part, the local board of education shall comply with the provisions of G.S. 115-142. If an employee within the meaning of G.S. 143-540(1)b. is other than one whose termination is made reviewable pursuant to G.S. 115-142, he shall be given the opportunity for a hearing before the local board of education prior to the termination of his employment.

(c) Before the employment of an employee of a board of trustees of a community college or technical institute within the meaning of G.S. 143-540(1)c. is finally terminated pursuant to this Part, he shall be given the opportunity for a hearing before the board of trustees.

"Part 2.

"Public Officials.

"§ 143-543. Definitions. — As used in this Part:

- (1) 'Appointing authority' means the Governor, Chief Justice of the Supreme Court, Lieutenant Governor, Speaker of the House, President Pro Tempore of the Senate, members of the Council of State, all heads of the executive departments of State government, the Board of Governors of The University of North Carolina, and any other State person or group of State persons authorized by law to appoint to a public office.
- (2) 'Employing entity' means and includes:
 - a. any State entity enumerated in G.S. 143B-3 of the Executive Organization Act of 1973;
 - b. any city or county board of education under Chapter 115 of the General Statutes; or
 - c. any board of trustees of a community college or technical institute under Chapter 115A of the General Statutes.
- (3) 'Public office' means appointive membership on any State commission, council, committee, board, including occupational licensing boards as defined in G.S. 93B-1, board of trustees, including boards of constituent institutions of The University of North Carolina and boards of community colleges and technical institutes created pursuant to G.S. 115A-7, and any other State agency created by law; provided that 'public office' does not

include an office for which a regular salary is paid to the holder as an employee of the State or of one of its departments, agencies, or institutions.

- (4) 'Public official' means any person who is a member of any public office as defined by this Part.

"§ 143-544. Notification of the appointing authority; investigation — Whenever a representative of an employing entity as defined by this Part has knowledge that a public official owes money to the State and is delinquent in satisfying this obligation, the representative shall notify the appointing authority who appointed the public official in question. Upon receipt of notification the appointing authority shall investigate the circumstances of the claim of money owed to the State for purposes of determining if a debt is owed and its amount.

"§ 143-545. Conditional continuing appointment; repayment election. — If after investigation under the terms of this Part an appointing authority determines the existence of a delinquent monetary obligation owed to the State by a public official, he shall notify the public official that his appointment will be terminated 60 days from the date of notification unless repayment in full is made within that period. Upon determination that any public official has not made repayment in full after the expiration of the time prescribed by this section, the appointing authority shall terminate the appointment of the public official; provided however, the appointing authority shall allow the public official who for some extraordinary reason is incapable of repaying the obligation according to the preceding terms to continue his appointment as long as he is attempting repayment in good faith under his present financial circumstances, but shall promptly terminate the public official's appointment if he ceases to make payments or discontinues a good faith effort to make repayment.

"Part 3.

"Legislators.

"§ 143-546. Definition of employing entity. — For the purposes of this Part 'employing entity' shall have the same meaning as provided in G.S. 143-540(1) and G.S. 143-543(2).

"§ 143-547. Notification to the Legislative Ethics Committee; investigation. — Whenever a representative of any employing entity as defined by this Part has knowledge that a legislator owes money to the State and is delinquent in satisfying this obligation, this information shall be reported to the Legislative Ethics Committee established pursuant to Chapter 120, Article 14 of the General Statutes for disposition.

"Part 4.

"Confidentiality Exemption, Preservation of Federal Funds, and Limitation of Actions.

"§ 143-548. Confidentiality exemption. — Notwithstanding the provisions of any law of this State making confidential the contents of any records or prohibiting the release or disclosure of any information, all information exchange among the employing entities defined under this Article necessary to accomplish and effectuate the intent of this Article is lawful.

"§ 143-549. Preservation of federal funds. — Nothing in this Article is intended to conflict with any provision of federal law or to result in the loss of federal funds. If the exchange among employing entities of information necessary to effectuate the provisions of this Article would conflict with this intention, the exchange of information shall not be made.

"§ 143-550. Applicability of a statute of limitations. — Payments on obligations to the State collected under the procedures established by this Article shall not be construed to revive obligations or any part thereof already barred by an applicable statute of limitations. Furthermore, payments made as a result of collection procedures established by the terms of this Article shall not be construed to extend an applicable statute of limitations."

Sec. 2. G.S. 115-142(e)(1), as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes is hereby amended by adding a new sub-subdivision "n" at the end thereof to read as follows:

"n. Failure to repay money owed to the State in accordance with the provisions of Article 59, Chapter 143 of the General Statutes."

G.S. 115-142(e)(1)k., as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes, is hereby amended by deleting the word "or" at the end of the second line of that sub-subdivision.

G.S. 115-142(e)(1)l., as the same appears in the 1978 Replacement to Volume 3A, Part II of the General Statutes is hereby amended by deleting the period mark at the end of the third line of that sub-subdivision and substituting in place thereof the semicolon punctuation mark followed by the word "or" at the end of that same line.

Sec. 3. G.S. 120-102, as the same appears in the 1977 Supplement to Volume 3B of the General Statutes, is hereby amended by adding a new subdivision (8) at the end thereof to read as follows:

"(8) Upon receipt of information that a legislator owes money to the State and is delinquent in making repayment of such obligation, to investigate and dispose of the matter according to the terms of this Article."

Sec. 4. This act is effective upon ratification.

In the General Assembly read three times and ratified, this the 8th day of June, 1979.