

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 348

Short Title: Amend State Auditor's Duties.

(Public)

Sponsors: Senator Sherron.

Referred to: State Personnel and State Government.

March 28, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND VARIOUS STATUTES RELATING TO THE STATE
3 AUDITOR.

4 The General Assembly of North Carolina enacts:

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

6 **"§ 43-51. Satisfaction by third person or by Treasurer.**

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

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

18 **"§ 53-134. Offenses declared misdemeanors; prosecution; employment of counsel;
19 punishment.**

20 Any offense against the banking laws of the State of North Carolina which is not
21 elsewhere specifically declared to be a crime, or for which elsewhere a penalty is not
22 specifically provided, is hereby declared to be a misdemeanor, and shall be punishable
23 at the discretion of the court. The Commissioner of Banks is authorized and directed to
24 prosecute all offenses against the banking laws of the State, and to that end is expressly

1 authorized to employ counsel to prosecute in the inferior courts and to aid the district
2 attorney in the superior courts. The Auditor of the State shall, upon the certificate of the
3 Commissioner of Banks, Banks shall accompanied by an itemized statement of the account,
4 ~~draw his warrant upon the State Treasurer to compensate the counsel so employed, and the~~
5 State Treasurer shall pay the same out of the funds in the treasury and not otherwise
6 appropriated."

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

8 **"§ 58-88-15. Accounting; reports; audits.**

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

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

18 **"§ 90-171.25. Custody and use of funds.**

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

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

25 **"§ 90-270.18. Disposition of fees.**

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

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

31 **"§ 90C-7. Executive Director.**

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

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

38 **"§ 105-164.41. Excess payments; refunds.**

39 If upon examination of any return made under this Article, it appears that an amount
40 of tax has been paid in excess of that properly due, then the amount in excess shall be
41 credited against any tax or installment thereof then due from the taxpayer, under any
42 other subsequent return, or shall be refunded to the taxpayer ~~by certificate of overpayment~~
43 ~~issued by the Secretary to the State Auditor, and the Auditor shall issue his warrant on the~~
44 ~~Treasurer, which warrant shall be payable out of any funds appropriated for that purpose."~~

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

2 **"§ 111-18. Payment of awards.**

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

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

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

18 **"§ 111-27.1. Department of Human Resources authorized to conduct certain**
19 **business operations.**

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

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

38 Sec. 10. G.S. 112-1 through 112-37 are repealed.

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

40 **"§ 115C-133. When clothing, etc., for pupils paid for by county.**

41 Where it shall appear to the satisfaction of the director of social services and the
42 chairman of the board of county commissioners of any county in this State that the
43 parents of any blind child residing in such county are then unable to provide such child
44 with clothing or traveling expenses or both to and from the Governor Morehead School,

1 or where such child has no living parent, or any estate of his own, or any person, or
2 persons, upon which he is legally dependent who are able to provide expenses for such
3 transportation and clothing, then upon the demand of the institution which such child
4 attends or has been accepted for attendance, ~~said demand being made through the State~~
5 ~~Auditor,~~ the board of county commissioners of the county in which such child resides
6 shall ~~issue or cause to be issued its warrant payable to the State Auditor, same to be credited~~
7 ~~pay to the proper institution, for the payment of institution~~ an amount sufficient to clothe
8 and pay traveling expenses of said child."

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

10 **"§ 127A-106. Paid by the State.**

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

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

16 "(f) Collection of Contributions.

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

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

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

28 a. Upon the basis of each actuarial valuation provided herein there
29 shall be prepared biennially and certified to the Department of
30 Administration a statement of the total amount necessary for the
31 ensuing biennium to the pension accumulation and expense
32 funds, as provided under subsections (d) and (f) of this section,
33 and these funds shall be handled and disbursed in accordance
34 with Chapter 100, Public Laws of 1929, and amendments
35 thereto (G.S. 143-1 et seq.), known as the Executive Budget
36 Act.

37 b. Until the first valuation has been made and the rates computed
38 as provided in subsection (d) of this section, the amount payable
39 by employers on account of the normal and accrued liability
40 contributions shall be five and fifty-one one-hundredths percent
41 (5.51%) of the payroll of all teachers and three and sixteen one-
42 hundredths percent (3.16%) for other State employees.

43 e. ~~The auditor shall issue his warrant to the State Treasurer~~
44 ~~directing the State Treasurer to pay this sum to the Board of~~

1 ~~Trustees, from the appropriations for the Teachers' and State~~
2 ~~Employees' Retirement System.~~

3 d. Each board of education in each county and each board of
4 education in each city in which teachers or other employees of
5 the schools receive compensation for services in the public
6 schools from sources other than the appropriation of the State of
7 North Carolina shall pay the Board of Trustees of the State
8 Retirement System such rate of their respective salaries as are
9 paid those of other employees.

10 e. Each employer shall transmit monthly to the State Retirement
11 System on account of each employee, who is a member of this
12 System, an amount sufficient to cover the normal contribution
13 and the accrued liability contribution of each member employed
14 by such employer for the preceding month.

15 (3) If within 90 days after request therefor by the Board any employer
16 shall not have provided the System with the records and other
17 information required hereunder or if the full accrued amount of the
18 contributions provided for under this section due from members
19 employed by an employer or from an employer other than the State
20 shall not have been received by the System from the chief fiscal officer
21 of such employer within 30 days after the last due date as herein
22 provided, then, notwithstanding anything herein or in the provisions of
23 any other law to the contrary, upon notification by the Board to the
24 State Treasurer as to the default of such employer as herein provided,
25 any distributions which might otherwise be made to such employer
26 from any funds of the State shall be withheld from such employer until
27 notice from the Board to the State Treasurer that such employer is no
28 longer in default."

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

30 **"§ 143-247.2. Contributions for nongame wildlife.**

31 The Wildlife Resources Commission is hereby authorized to issue and sell
32 appropriate emblems by which to identify recipients thereof as contributors to a special
33 wildlife conservation fund which shall be held and accounted for as a separate part of
34 the Wildlife Resources Fund and which shall be made available to the Wildlife
35 Resources Commission for conservation, protection, enhancement, preservation and
36 perpetuation of nongame wildlife species and those species which may be endangered
37 or threatened with extinction. ~~The special wildlife conservation fund will be audited by the~~
38 ~~State Auditor.~~ Emblems of different size, shape, type or design may be used to recognize
39 contributions in different amounts, but no such emblem shall be issued for a
40 contribution amounting in value to less than five dollars (\$5.00)."

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

42 "(f) Expenditure of the income derived from the Wildlife Endowment Fund shall
43 be made through the State budget accounts of the Wildlife Resources Commission in
44 accordance with the provisions of the Executive Budget Act. The Wildlife Endowment

1 Fund is subject to the oversight of the State Auditor pursuant to ~~G.S. 147-58-~~Article 5A
2 of Chapter 147 of the General Statutes."

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

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

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

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

21 Sec. 18. G.S. 147-64.6(c)(13) reads as rewritten:

22 "(13) At the conclusion of an audit, the Auditor or his designated
23 representative shall discuss the audit with the official whose office
24 is subject to audit and submit necessary underlying facts developed
25 for all findings and recommendations which may be included in the
26 audit report. On audits of economy and efficiency and program
27 results, the auditee's written response shall be included in the final
28 report if received within ~~30-~~15 working days from receipt of the
29 draft report."

30 Sec. 19. G.S. 148-29 reads as rewritten:

31 **"§ 148-29. Transportation of convicts to prison; sheriff's expense affidavit; State**
32 **not liable for maintenance expenses until convict received.**

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

42 Sec. 20. G.S. 7A-343.1 reads as rewritten:

43 **"§ 7A-343.1. Distribution of copies of the appellate division reports.**

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

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

1	University of North Carolina, Chapel Hill	71
2	University of North Carolina, Charlotte	1
3	University of North Carolina, Greensboro	1
4	University of North Carolina, Asheville	1
5	North Carolina State University, Raleigh	1
6	Appalachian State University	1
7	East Carolina University	1
8	Fayetteville State University	1
9	North Carolina Central University	17
10	Western Carolina University	1
11	Duke University	17
12	Davidson College	2
13	Wake Forest University	25
14	Lenoir Rhyne College	1
15	Elon College	1
16	Campbell College	25
17	Federal, Out-of-State and Foreign	
18	Secretary of State	1
19	Secretary of Defense	1
20	Secretary of Health, Education and Welfare	1
21	Secretary of Housing and Urban Development	1
22	Secretary of Transportation	1
23	Attorney General	1
24	Department of Justice	1
25	Internal Revenue Service	1
26	Veterans' Administration	1
27	Library of Congress	5
28	Federal Judges resident in North Carolina	1 ea.
29	Marshal of the United States Supreme Court	1
30	Federal District Attorneys resident in North Carolina	1 ea.
31	Federal Clerks of Court resident in North Carolina	1 ea.
32	Supreme Court Library exchange list	1
33	Each justice of the Supreme Court and judge of the Court of Appeals shall receive	
34	for his private use, one complete and up-to-date set of the appellate division reports. The	
35	copies of reports furnished each justice or judge as set out in the table above may be	
36	retained by him personally to enable him to keep up-to-date his personal set of reports."	
37	Sec. 21. This act is effective upon ratification.	