

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 360

Government Performance Audit Select Committee Substitute Adopted 4/1/93

Short Title: GPAC/DHR Unit Reorg.

(Public)

Sponsors:

Referred to: Appropriations.

February 24, 1993

A BILL TO BE ENTITLED

AN ACT TO IMPLEMENT A RECOMMENDATION OF THE GOVERNMENT PERFORMANCE AUDIT COMMITTEE TO REORGANIZE CERTAIN MISPLACED ORGANIZATIONAL UNITS IN THE DEPARTMENT OF HUMAN RESOURCES, AND TO MAKE ADMINISTRATIVE CHANGES IN THE CHARITABLE SOLICITATION LAW.

The General Assembly of North Carolina enacts:

Section 1. The General Assembly finds that, if organizational units within departments are misplaced, vital fiscal and human resources are wasted in unnecessary management positions and in excessive coordination of services. The General Assembly further finds that several organizational units and positions are organizationally misplaced in the Department of Human Resources.

Sec. 2. (a) All of the powers, duties, budget, and functions of the Charitable Solicitation Unit of the Division of Facility Services, Department of Human Resources, are transferred to the Department of Justice, Office of the Attorney General, Consumer Protection Section. This transfer has all the elements of a Type I transfer, as defined in G.S. 143A-6.

(b) G.S. 131C-3(3) and G.S. 131C-3(10) are repealed.

(c) G.S. 131C-3(5) reads as rewritten:

"(5) 'Department' means the Department of ~~Human Resources~~-Justice."

(d) G.S. 131C-4(a) reads as rewritten:

"(a) Any person who solicits charitable contributions shall apply for and obtain an annual license from the ~~Department of Human Resources~~-Department. A person who is

1 authorized to solicit on behalf of a licensed or exempt person is not required to obtain a  
2 license under this section."

3 (e) G.S. 131C-7(a)(6) reads as rewritten:

4 "(6) A copy of a financial statement in a consolidated report audited by an  
5 independent public accountant for the person's immediately preceding  
6 fiscal year or, if none, for the present fiscal year or part thereof;  
7 provided that if total support and revenue exceeds two hundred fifty  
8 thousand dollars (\$250,000) for the fiscal year or part thereof, the  
9 report shall be audited by a certified public accountant. Information as  
10 to the total support and revenue and all of the fund-raising activities  
11 including the balance sheet, kind and amounts of funds raised, costs  
12 and expenses incidental thereto, allocation or disbursement of funds  
13 raised, changes in fund balances, notes to the audit and the opinion as  
14 to the fairness of the presentation by the accountant shall be included.  
15 This report shall conform to the accounting and reporting procedures  
16 established by the ~~Commission~~ Attorney General. The ~~Commission~~  
17 Attorney General shall adopt rules for simplified reporting by persons  
18 whose total support and revenue is one hundred thousand dollars  
19 (\$100,000) or less."

20 (f) G.S. 131C-8(a) reads as rewritten:

21 "(a) An application for licensure shall be in writing, verified under oath or  
22 affirmation and shall contain such information as specified in G.S. 131C-7 as the  
23 ~~Commission~~ Attorney General shall require. In addition, the application shall contain:

- 24 (1) The name and address of all officers, employees and agents;  
25 (2) The name and address of all persons who own a ten percent (10%) or  
26 more interest in the applicant; and  
27 (3) A description of any other business conducted by the applicant or any  
28 person who owns a ten percent (10%) or more interest in the  
29 applicant."

30 (g) G.S. 131C-9(a) reads as rewritten:

31 "(a) An application for licensure under G.S. 131C-4 or 131C-6 shall be  
32 accompanied by a fee not to exceed one hundred dollars (\$100.00) in accordance with a  
33 fee schedule established by the ~~Commission~~ Attorney General."

34 (h) G.S. 131C-10 reads as rewritten:

35 "**§ 131C-10. Bond.**

36 An applicant under G.S. 131C-6 shall, at the time of making application, file with  
37 and have approved by the Department a bond in which the applicant shall be the  
38 principal obligor in the sum of twenty thousand dollars (\$20,000) with one or more  
39 sureties satisfactory to the Department, whose liability in the aggregate as such sureties  
40 will at least equal the said sum; and the applicant shall maintain said bond in effect so  
41 long as the license is in effect. The bond shall run to the State for the use of said bond  
42 for any penalties and to any person who may have a cause of action against the obligor  
43 of the bond for any losses resulting from the obligor's conduct of any and all activities  
44 subject to this Chapter or arising out of a violation of this Chapter or any rule of the

1 ~~Commission-Attorney General.~~ A bond shall not be required of any applicant who does  
2 not personally receive any of the contributions collected and who does not personally  
3 handle any of the contributions expended. In lieu of the bond required under this  
4 section, an applicant may submit a certificate of deposit in the amount of twenty  
5 thousand dollars (\$20,000) that is either payable to the State and unrestrictedly  
6 endorsed to the Department; or in the case of a negotiable certificate of deposit, is  
7 unrestrictedly endorsed to the Department; or, in the case of a nonnegotiable certificate  
8 of deposit, is assigned to the Department in a form satisfactory to the Department.  
9 Access to the certificate of deposit in favor of the State is subject to the same conditions  
10 as for a bond under this section and shall extend for a period not less than four years  
11 after the licensee ceases activities that are subject to this Chapter. The Department shall  
12 deliver to the State Treasurer certificates of deposit submitted under this section."

13 (i) G.S. 131C-12 reads as rewritten:

14 **"§ 131C-12. Rule-making authority.**

15 ~~The Social Services Commission shall have the authority to~~ Attorney General shall adopt  
16 rules necessary for the implementation of this Chapter and to prevent false and  
17 deceptive statements and conduct in the solicitation of charitable contributions."

18 (j) G.S. 131C-13 reads as rewritten:

19 **"§ 131C-13. Fiscal records.**

20 Any person subject to licensure under this Chapter shall maintain accurate fiscal  
21 records in accordance with rules adopted by the ~~Commission-Attorney General.~~"

22 (k) G.S. 131C-18 reads as rewritten:

23 **"§ 131C-18. Duty of ~~Secretary of Human Resources~~ Attorney General to investigate.**

24 ~~The Secretary of Human Resources shall have the power, and it shall be his duty, to~~  
25 Attorney General shall investigate, from time to time, the activities of all persons  
26 soliciting charitable contributions in this State, which are or may in his opinion be  
27 subject to this Chapter, or which have or may have violated the provisions of this  
28 Chapter. Such investigation shall be with a view of ascertaining whether this Chapter is  
29 being or has been violated by any such person, and if so, in what respect, with the  
30 purpose of acquiring such information as may be necessary to enable ~~him~~ the Attorney  
31 General to grant or deny an application for licensure, to revoke a license, to seek an  
32 injunction against any person, or to take any other action pursuant to this Chapter."

33 (l) G.S. 131C-19 reads as rewritten:

34 **"§ 131C-19. Power to compel examination.**

35 In performing the duty required in G.S. 131C-18, the ~~Secretary shall have the power,~~  
36 Attorney General may, at all times, to require the officers, agents or employees of any  
37 person soliciting charitable contributions in this State and all other persons having  
38 knowledge with respect to the matters and activities of such persons, to submit  
39 themselves to ~~examination by him,~~ examination, and produce for ~~his~~ inspection any of the  
40 books and papers of any such persons, or which are in any way connected with the  
41 business thereof; and the ~~Secretary is hereby given the right to~~ Attorney General may  
42 administer oath to any person ~~whom he may desire to examine.~~ under examination. ~~He~~  
43 ~~shall also, if it may become necessary, have the right to~~ The Attorney General may apply to  
44 any justice or judge of the appellate or superior court divisions, after five days notice of

1 ~~such~~ application, for an order on any ~~such~~ person he may desire to examine under  
2 examination to appear ~~and subject himself or itself to such examination, and be examined,~~  
3 and disobedience of such order shall constitute contempt, and shall be punishable as in  
4 other cases of disobedience of a proper order of such judge."

5 (m) G.S. 131C-21 reads as rewritten:

6 "**§ 131C-21. Injunction.**

7 If any person shall violate or threaten to violate any provision of this Chapter, the  
8 ~~Secretary of Human Resources~~ Attorney General may institute an action in the Superior  
9 Court of Wake County for injunctive relief against such violation or threatened  
10 violation."

11 (n) Rules adopted by the Social Services Commission regulating the  
12 Charitable Solicitation Act remain in effect until rewritten or repealed by the Attorney  
13 General.

14 (o) This section becomes effective October 1, 1993, and applies to charitable  
15 solicitations required on or after that date.

16 Sec. 3. All of the powers, duties, and functions of the Employee Assistance  
17 Program (EAP) Branch, Department of Human Resources, that are responsible for  
18 identifying troubled employees throughout the Department of Human Resources and  
19 assisting them to find personal counseling help or to access the appropriate referral  
20 resources and that also assist the area mental health programs through promotion,  
21 training, and support of area EAP procedures, are transferred to the Division of  
22 Personnel Management Services in the Office of the Secretary.

23 Sec. 4. All of the powers, duties, and functions of the Adult Services  
24 Branch/Controlled Substance Regulatory Unit, Department of Human Resources, that is  
25 responsible for implementing the regulatory responsibilities of the North Carolina  
26 Controlled Substance Act and that does licensing and inspection of drug-related  
27 facilities in order to prevent legitimately manufactured, distributed, or dispensed  
28 controlled substances from being delivered into the illicit market, are transferred to the  
29 Division of Facility Services.

30 Sec. 5. This act becomes effective July 1, 1993.