

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003**

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SENATE DRS65423-RL-2B (4/14)

Short Title: Non-State Entities Reporting Requirements.

(Public)

Sponsors: Senator Kerr.

Referred to:

BILL TO BE ENTITLED

AN ACT TO CLARIFY AND STRENGTHEN THE REPORTING REQUIREMENTS
OF NON-STATE ENTITIES RECEIVING STATE FUNDS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143-6.1 is repealed.

SECTION 2. Article 1 of Chapter 143 of the General Statutes is amended by adding a new section to read:

"§ 143-6.2. Use of State funds by non-State entities.

(a) Disbursement and Use of State Funds. – Every non-State entity that receives, uses, or expends any State funds shall use or expend the funds only for the purposes for which they were appropriated by the General Assembly or collected by the State. State funds include federal funds that flow through the State. For the purposes of this section the term "non-State entity" means a firm, corporation, partnership, association, unit of local government, or any other organization or group acting as a unit that is not a State agency, department, or institution.

(b) For the purposes of this section, the term "grantee" means a non-State entity other than a unit of local government that receives a grant of State funds from a State agency, department, or institution. The term "subgrantee" means a non-State entity other than a unit of local government that receives a grant of State funds from a grantee or from another subgrantee.

(c) Compliance by Non-State Entities. – If the Director of the Budget finds that a non-State entity has spent or encumbered State funds for an unauthorized purpose, the Director shall take appropriate administrative action to ensure that no further irregularities occur and shall report to the Attorney General any facts that pertain to an apparent violation of a criminal law or an apparent instance of malfeasance, misfeasance, or nonfeasance in connection with the use of State funds.

1 (d) The Office of State Budget and Management shall adopt rules to ensure the
2 uniform administration of State grants by all grantor State agencies and grantees or
3 subgrantees. The rules shall establish policies and procedures for disbursements of
4 grants and for State agency oversight, monitoring, and evaluation of grantees and
5 subgrantees. Such policies and procedures shall:

6 (1) Ensure funds are spent in accordance with the purposes for which they
7 were granted and hold the grantees and subgrantees accountable for
8 the legal and appropriate expenditure of State grant funds.

9 (2) Provide for adequate oversight and monitoring to prevent the misuse
10 of State funds.

11 (3) Establish mandatory periodic reporting requirements for grantees and
12 subgrantees, including methods of reporting, to provide financial and
13 program performance information.

14 (4) Require grantees and subgrantees to maintain reports, records, and
15 other information to properly account for the expenditure of all State
16 grant funds and to make such reports, records, and other information
17 available to the grantor State agency for oversight, monitoring, and
18 evaluation purposes.

19 (5) Require grantees and subgrantees to ensure that work papers in the
20 possession of their auditors are available to the grantor State agency
21 for the purpose of ensuring compliance with the rules adopted pursuant
22 to this subsection, and to ensure that the work papers are available to
23 the State Auditor for the purposes set out in subsection (h) of this
24 section.

25 (6) Require grantees to be responsible for managing and monitoring each
26 project, program, or activity supported by State grant funds, and each
27 subgrantee project, program, or activity supported by State grant
28 funds.

29 (7) Provide procedures for the suspension of further disbursements or use
30 of State funds for noncompliance with these rules or other
31 inappropriate use of the funds.

32 (e) Notwithstanding the provisions of G.S. 150B-2(8a)b, rules adopted pursuant
33 to subsection (d) of this section are subject to the provisions of Chapter 150B of the
34 General Statutes.

35 (f) The Office of State Budget and Management shall consult with the Office of
36 the State Auditor in establishing the rules required by subsection (d) of this section.

37 (g) The Office of State Budget and Management shall have the power to suspend
38 disbursement of State funds to grantees or subgrantees and prevent further use of funds
39 already disbursed for noncompliance with rules adopted pursuant to subsection (d) of
40 this section or for other inappropriate use of State funds.

41 (h) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article
42 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives,
43 uses, or expends State funds. A grantee or subgrantee must, upon request, furnish to the
44 State Auditor for audit all books, records, and other information necessary for the State

1 Auditor to account fully for the use and expenditure of State funds. The grantee or
2 subgrantee must furnish any additional financial or budgetary information requested by
3 the State Auditor including audit work papers in the possession of any auditor of a
4 grantee or subgrantee.

5 (i) Not later than May 1, 2007, and by May 1 of every succeeding year, the
6 Office of State Budget and Management shall report to the Joint Legislative
7 Commission on Governmental Operations and the Fiscal Research Division on all
8 grantees or subgrantees that failed to comply with this section during the prior fiscal
9 year, including the amount of State funds that were disbursed to each of those grantees
10 or subgrantees during that fiscal year and the amount of State funds that were withheld.

11 (j) All reports, records, financial statements, and other information furnished to
12 the State Auditor pursuant to this section, and any audits or reports prepared by the State
13 Auditor pursuant to this section, are public records pursuant to G.S. 132.1 except audit
14 work papers furnished by an auditor of a grantee or subgrantee.

15 (k) All reports, records, financial statements, and other information furnished to a
16 grantor State agency pursuant to this section, and any audits or reports prepared by a
17 grantor State agency pursuant to this section, are public records pursuant to G.S. 132.1
18 except audit work papers furnished by an auditor of a grantee or subgrantee.

19 (l) The Attorney General is authorized to bring a civil action in the Superior
20 Court of Wake County to enforce the provisions of subsections (a) or (g) of this section
21 and to recover any State funds expended in violation of subsections (a) or (g), or rules
22 adopted pursuant to subsection (d) of this section."

23 **SECTION 3.** G.S. 147-86.35(b) reads as rewritten:

24 "(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is
25 defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission
26 is subject to the applicable reporting requirements of ~~G.S. 143-6.1~~G.S. 143-6.2."

27 **SECTION 4.** G.S. 143-722(b) reads as rewritten:

28 "(b) Any non-State ~~corporation, organization, or institution~~ entity as that term is
29 defined in G.S. 143-6.2 that receives, uses, or expends any funds from the Commission
30 is subject to the applicable reporting requirements of ~~G.S. 143-6.1~~G.S. 143-6.2."

31 **SECTION 5.** There is appropriated from the General Fund the sum of
32 twenty-five thousand dollars (\$25,000) for the 2004-2005 fiscal year to the Office of
33 State Budget and Management for the purpose of developing the rules and policies
34 required by this act, including a review of the practices of other states in the
35 management of grants of State funds made to non-State entities.

36 **SECTION 6.** G.S. 143-6.2(d), (e), and (f), as enacted by this act, are
37 effective when they become law. The remainder of this act becomes effective July 1,
38 2005, and applies to appropriations and grants made for fiscal years beginning on or
39 after that date.