

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 1327
State Government, Local Government, and Veterans' Affairs Committee
Substitute Adopted 6/24/04

Short Title: Non-State Entities Reporting Requirements.

(Public)

Sponsors:

Referred to:

May 26, 2004

A 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 G.S. 143-6.1 is repealed.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. 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, public authority, or any other person, organization, group, or governmental entity that is not a State agency, department, or institution. For the purposes of this section, "unit of local government" has the meaning set out in G.S. 159-7(15) and "public authority" has the meaning set out in G.S. 159.7(10).

(b) For the purposes of this section, the term "grantee" means a non-State entity that receives a grant of State funds from a State agency, department, or institution but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission. The term "subgrantee" means a non-State entity that receives a grant of State funds from a grantee or from another subgrantee but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(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

1 apparent violation of a criminal law or an apparent instance of malfeasance,
2 misfeasance, or nonfeasance in connection with the use of State funds.

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

8 (1) Ensure that the purpose and reporting requirements of each grant are
9 specified to the grantee.

10 (2) Ensure that grantees specify the purpose and reporting requirements
11 for grants made to subgrantees.

12 (3) Ensure that funds are spent in accordance with the purposes for which
13 they were granted.

14 (4) Hold the grantees and subgrantees accountable for the legal and
15 appropriate expenditure of State grant funds.

16 (5) Provide for adequate oversight and monitoring to prevent the misuse
17 of State funds.

18 (6) Establish mandatory periodic reporting requirements for grantees and
19 subgrantees, including methods of reporting, to provide financial and
20 program performance information. The mandatory periodic reporting
21 requirements shall require grantees and subgrantees to file with the
22 State Auditor copies of reports and statements that are filed with State
23 agencies pursuant to this subsection.

24 (7) Require grantees and subgrantees to maintain reports, records, and
25 other information to properly account for the expenditure of all State
26 grant funds and to make such reports, records, and other information
27 available to the grantor State agency for oversight, monitoring, and
28 evaluation purposes.

29 (8) Require grantees and subgrantees to ensure that work papers in the
30 possession of their auditors are available to the State Auditor for the
31 purposes set out in subsection (h) of this section.

32 (9) Require grantees to be responsible for managing and monitoring each
33 project, program, or activity supported by State grant funds and each
34 subgrantee project, program, or activity supported by State grant
35 funds.

36 (10) Provide procedures for the suspension of further disbursements or use
37 of State grant funds for noncompliance with these rules or other
38 inappropriate use of the funds.

39 (11) Provide procedures for use in appropriate circumstances for
40 reinstatement of disbursements that have been suspended for
41 noncompliance with these rules or other inappropriate use of State
42 grant funds.

43 (12) Provide procedures for the recovery and return to the grantor State
44 agency of unexpended State grant funds from a grantee or subgrantee

1 if the grantee or subgrantee is unable to fulfill the purposes of the
2 grant.

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

6 (f) The Office of State Budget and Management shall consult with the Office of
7 the State Auditor and the Attorney General in establishing the rules required by
8 subsection (d) of this section.

9 (g) The Office of State Budget and Management shall have the power to suspend
10 disbursement of State grant funds to grantees or subgrantees, to prevent further use of
11 State grant funds already disbursed, and to recover State grant funds already disbursed
12 for noncompliance with rules adopted pursuant to subsection (d) of this section or for
13 other inappropriate use of State funds. If the grant funds are a pass-through of funds
14 granted by an agency of the United States, then the Office of State Budget and
15 Management must consult with the granting agency of the United States prior to taking
16 the actions authorized by this subsection.

17 (h) Audit Oversight. – The State Auditor has audit oversight, pursuant to Article
18 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives,
19 uses, or expends State funds. A grantee or subgrantee must, upon request, furnish to the
20 State Auditor for audit all books, records, and other information necessary for the State
21 Auditor to account fully for the use and expenditure of State funds. The grantee or
22 subgrantee must furnish any additional financial or budgetary information requested by
23 the State Auditor, including audit work papers in the possession of any auditor of a
24 grantee or subgrantee.

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

31 (j) Grantor State agencies shall submit a list to the State Auditor, in the format
32 prescribed by the State Auditor, by October 31 each year of every grantee to which the
33 agency disbursed State funds in the prior fiscal year, the amount disbursed, the amount
34 disbursed to each grantee, and other such information as required by the State Auditor
35 to comply with the requirements set forth in this section.

36 (k) Civil Actions. – Civil actions to recover State funds or to obtain other
37 mandatory orders in the name of the State on relation of the Attorney General, or in the
38 name of the Office of State Budget and Management, shall be filed in the General Court
39 of Justice in Wake County."

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

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

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

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

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

9 **SECTION 6.** G.S. 143-6.2(d), (e), and (f), as enacted by this act, are
10 effective when they become law. The remainder of this act becomes effective July 1,
11 2005, and applies to appropriations and grants made for fiscal years beginning on or
12 after that date.