

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

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SENATE BILL 965
Judiciary II Committee Substitute Adopted 4/16/03
House Committee Substitute Favorable 7/9/03

Short Title: Amend Constitution/Sch. Fines & Forfeitures.

(Public)

Sponsors:

Referred to:

April 3, 2003

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT THE GENERAL ASSEMBLY MAY PLACE THE CLEAR PROCEEDS OF CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY IN A STATE FUND TO BE USED EXCLUSIVELY FOR MAINTAINING FREE PUBLIC SCHOOLS.

The General Assembly of North Carolina enacts:

SECTION 1. Section 7 of Article IX of the North Carolina Constitution reads as rewritten:

"Sec. 7. County school fund; State fund for certain moneys.

(a) All-Except as provided in subsection (b) of this section, all moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State, shall belong to and remain in the several counties, and shall be faithfully appropriated and used exclusively for maintaining free public schools.

(b) The General Assembly may place in a State fund the clear proceeds of all civil penalties, forfeitures, and fines which are collected by State agencies and which belong to the public schools pursuant to subsection (a) of this section. Moneys in such State fund shall be faithfully appropriated by the General Assembly, on a per pupil basis, to the counties or to local school units, to be used exclusively for maintaining free public schools."

SECTION 2. G.S. 115C-457.1 reads as rewritten:

"§ 115C-457.1. Creation of Fund; administration.

(a) There is created the Civil Penalty and Forfeiture Fund. The Fund shall consist of the clear proceeds of all civil ~~penalties and civil forfeitures~~ penalties, civil forfeitures, and civil fines that are collected by a State agency and ~~are payable to the County School~~

1 ~~Fund~~ that the General Assembly is authorized to place in a State fund pursuant to
2 Article IX, ~~Section 7~~ Section 7(b) of the Constitution.

3 (b) The Fund shall be administered by the Office of State Budget and
4 Management. The Fund and all interest accruing to the Fund shall be faithfully used
5 exclusively for maintaining free public schools."

6 **SECTION 3.** G.S. 115C-457.2 reads as rewritten:

7 "**§ 115C-457.2. Remittance of moneys to the Fund.**

8 The clear proceeds of all civil ~~penalties and civil forfeitures~~ penalties, civil
9 forfeitures, and civil fines that are collected by a State agency and ~~are payable to the~~
10 ~~County School Fund~~ that the General Assembly is authorized to place in a State fund
11 pursuant to Article IX, ~~Section 7~~ Section 7(b) of the Constitution shall be remitted to the
12 Office of State Budget and Management by the officer having custody of the funds
13 within 10 days after the close of the calendar month in which the revenues were
14 received or collected. Notwithstanding any other law, ~~all funds which are civil penalties~~
15 ~~or civil forfeitures within the meaning of Article IX, Section 7 of the Constitution~~ all
16 such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear
17 proceeds of ~~such these~~ funds include the full amount of all ~~such penalties and forfeitures~~
18 civil penalties, civil forfeitures, and civil fines collected under authority conferred by
19 the State, diminished only by the actual costs of collection, not to exceed ten percent
20 (10%) of the amount collected."

21 **SECTION 4.** The amendment set out in Section 1 of this act shall be
22 submitted to the qualified voters of the State at the next statewide election, primary or
23 otherwise, which election shall be conducted under the laws then governing elections in
24 the State. Ballots, voting systems, or both may be used in accordance with Chapter 163
25 of the General Statutes. The question to be used in the voting systems and ballots shall
26 be:

27 "[] FOR [] AGAINST

28 Constitutional amendments to provide that the General Assembly may place
29 the clear proceeds of civil penalties, civil forfeitures, and civil fines collected by a State
30 agency in a State fund to be used exclusively for maintaining free public schools."

31 **SECTION 5.** If a majority of votes cast on the question are in favor of the
32 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
33 amendment to the Secretary of State. The Secretary of State shall enroll the amendment
34 so certified among the permanent records of that office. The amendment set out in
35 Section 1 of this act shall become effective July 1, 2004.

36 **SECTION 6.** Sections 2 and 3 of this act become effective only if the voters
37 approve the constitutional amendment set out in Section 1 of this act. If the voters
38 approve the constitutional amendment, Sections 2 and 3 of this act shall become
39 effective July 1, 2004.

40 **SECTION 7.** This act is effective when it becomes law.