

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

S

D

SENATE DRS35211-LEx-110 (3/6)

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

(Public)

Sponsors: Senator Dalton.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO AMEND THE NORTH CAROLINA CONSTITUTION TO PROVIDE THAT CLEAR PROCEEDS OF ALL CIVIL PENALTIES, CIVIL FORFEITURES, AND CIVIL FINES COLLECTED BY A STATE AGENCY ARE REMITTED TO THE CIVIL PENALTY AND FORFEITURE FUND AND FAITHFULLY 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.

All moneys, stocks, bonds, and other property belonging to a county school fund, and the clear proceeds of all criminal penalties and criminal forfeitures and of all criminal 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."

SECTION 2. Article IX of the North Carolina Constitution is amended by adding a new section to read:

"Sec. 7A. Civil Penalty and Forfeiture Fund.

All monies belonging to the Civil Penalty and Forfeiture Fund and the clear proceeds of all civil penalties, civil forfeitures, and civil fines collected by a State agency shall belong to and remain in the Civil Penalty and Forfeiture Fund and shall be faithfully appropriated by the General Assembly to the counties and used exclusively for maintaining free public schools as provided by statute."

SECTION 3. 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,

1 and civil fines that are collected by a State agency and are payable to the County School
2 Fund-Civil Penalty and Forfeiture Fund pursuant to Article IX, ~~Section 7~~Section 7A of
3 the Constitution.

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

7 **SECTION 4.** G.S. 115C-457.2 reads as rewritten:

8 "**§ 115C-457.2. Remittance of ~~moneys~~ monies to the Fund.**

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

21 **SECTION 5.** The amendments set out in Section 1 and Section 2 of this act
22 shall be submitted to the qualified voters of the State at a statewide general election on
23 November 4, 2003, which election shall be conducted under the laws then governing
24 elections in the State. Ballots, voting systems, or both may be used in accordance with
25 Chapter 163 of the General Statutes. The question to be used in the voting systems and
26 ballots shall be:

27 "[] FOR [] AGAINST

28 Constitutional amendments to provide that clear proceeds of all civil
29 penalties, civil forfeitures, and civil fines collected by a State agency are remitted to the
30 Civil Penalty and Forfeiture Fund and faithfully used exclusively for maintaining free
31 public schools as provided by statute."

32 **SECTION 6.** If a majority of votes cast on the question are in favor of the
33 amendment set out in Section 1 of this act, the State Board of Elections shall certify the
34 amendments to the Secretary of State. The Secretary of State shall enroll the
35 amendments so certified among the permanent records of that office. The amendments
36 set out in Section 1 of this act shall become effective July 1, 2004.

37 **SECTION 7.** Sections 3 and 4 of this act become effective only if the voters
38 approve the constitutional amendments set out in Section 1 and Section 2 of this act. If
39 the voters approve the constitutional amendments, Sections 3 and 4 of this act shall
40 become effective July 1, 2004.

41 **SECTION 8.** This act is effective when it becomes law.