

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2003

SESSION LAW 2003-423
SENATE BILL 965

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-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, 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 forfeiturespenalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the County School Fund-that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7-Section 7(b) of the Constitution.

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

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

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

The clear proceeds of all civil penalties and civil forfeiturespenalties, civil forfeitures, and civil fines that are collected by a State agency and are payable to the County School Fund- that the General Assembly is authorized to place in a State fund pursuant to Article IX, Section 7-Section 7(b) of the Constitution shall be remitted to the Office of State Budget and Management by the officer having custody of the funds within 10 days after the close of the calendar month in which the revenues were received or collected. Notwithstanding any other law, all funds which are civil penalties or civil forfeitures within the meaning of Article IX, Section 7 of the Constitutionall such funds shall be deposited in the Civil Penalty and Forfeiture Fund. The clear proceeds of such-these funds include the full amount of all such penalties and forfeitures civil penalties, civil forfeitures, and civil fines collected under authority conferred by

the State, diminished only by the actual costs of collection, not to exceed ten percent (10%) of the amount collected."

SECTION 3.1. G.S. 115C-238.29H(b) reads as rewritten:

"(b) If a student attends a charter school, the local school administrative unit in which the child resides shall transfer to the charter school an amount equal to the per pupil local current expense appropriation to the local school administrative unit for the fiscal year. The amount transferred under this subsection that consists of revenue derived from supplemental taxes shall be transferred only to a charter school located in the tax district for which these taxes are levied and in which the student resides."

SECTION 3.2. G.S. 115C-457.3 reads as rewritten:

"§ 115C-457.3. Transfer of funds to the State School Technology Fund.

The Office of State Budget and Management shall transfer funds accruing to the Civil Penalty and Forfeiture Fund to the State School Technology Fund. These funds shall be allocated to ~~local school administrative units~~ counties on the basis of average daily membership. These funds shall be distributed to the counties to be allocated to the public schools, including charter schools, in the same manner as provided under G.S. 115C-452."

SECTION 4. The amendment set out in Section 1 of this act shall be submitted to the qualified voters of the State at the statewide general election in November of 2004, which election shall be conducted under the laws then governing elections in the State. Ballots, voting systems, or both may be used in accordance with Chapter 163 of the General Statutes. The question to be used in the voting systems and ballots shall be:

"[] FOR [] AGAINST

Constitutional amendment 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."

SECTION 5. If a majority of votes cast on the question are in favor of the amendment set out in Section 1 of this act, the State Board of Elections shall certify the amendment to the Secretary of State. The Secretary of State shall enroll the amendment so certified among the permanent records of that office. The amendment set out in Section 1 of this act shall become effective January 1, 2005.

SECTION 6. Sections 2 through 3 of this act become effective only if the voters approve the constitutional amendment set out in Section 1 of this act. If the voters approve the constitutional amendment, Sections 2 through 3 of this act shall become effective January 1, 2005.

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

In the General Assembly read three times and ratified this the 18th day of July, 2003.

s/ Beverly E. Perdue
President of the Senate

s/ Richard T. Morgan
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:31 p.m. this 14th day of August, 2003