

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-7
SENATE BILL 14**

**AN ACT TO PROVIDE FUNDS FOR CERTAIN EXPENDITURES AND TO CLARIFY
AND MODIFY OTHER LAWS.**

The General Assembly of North Carolina enacts:

SECTION 1. Of the funds appropriated to the Department of Public Instruction for the 2014-2015 fiscal year, the Department shall transfer the sum of fifty thousand dollars (\$50,000) to the Office of Administrative Hearings to be allocated to the Rules Review Commission, created by G.S. 143B-30.1, to pay for any litigation costs incurred in the defense of *North Carolina State Board of Education v. The State of North Carolina and The Rules Review Commission*, Wake County Superior Court, File No. 14 CVS 14791 (filed November 7, 2014). These funds shall not revert at the end of the 2014-2015 fiscal year but shall remain available during the 2015-2016 fiscal year for expenditure in accordance with this section.

SECTION 2. Of the funds appropriated to the Department of Public Instruction for the 2014-2015 fiscal year for current operations of the Department, the Department shall transfer the sum of two hundred seventy-five thousand dollars (\$275,000) to the Department of Administration to support the operations of the Academic Standards Review Commission established in S.L. 2014-78. From these funds, an amount equal to the total of all costs incurred by the Department of Administration prior to the enactment of this act to support the operations of the Commission shall be credited to the Department. Expenditure of the remainder of these funds shall be made upon authorization by the Commission, only for the following:

- (1) Administrative assistance, including professional and clerical staff and any contracts for professional, clerical, and consultant services. Consultant services may include contracts with qualified experts on academic standards that may be used as an alternative to the Common Core Standards, including other state academic standards.
- (2) Technical assistance, including meeting rooms, telephones, office space, equipment, and supplies provided by the Department of Administration in accordance with Section 2(f) of S.L. 2014-78.
- (3) Per diem, subsistence, and travel allowances provided to Commission members in accordance with G.S. 138-5, 138-6, or 120-3.1, as appropriate.

SECTION 3. The funds transferred to the Department of Administration in Section 2 of this act shall not revert at the end of the 2014-2015 fiscal year but shall remain available for expenditure in accordance with that section until the Commission terminates on December 31, 2015, or upon the filing of its final report, whichever occurs first. Any unexpended, unencumbered balance of these funds shall revert to the General Fund on June 30, 2016.

SECTION 4. The General Assembly finds that considerable resources have already been expended to allow teachers and members of the public to make known their opinions and concerns surrounding adoption of academic standards. Specifically, the General Assembly finds that (i) on March 20, 2014, a Legislative Research Commission committee heard more than two hours of comment from stakeholders and interested members of the public on the subject; and (ii) on October 20, 2014, the Department of Public Instruction surveyed every public school teacher in the State on the subject. Accordingly, funds transferred pursuant to Section 2 of this act shall not be used by the Academic Standards Review Commission to conduct any survey related to the adoption of academic standards or to contract for the performance of such a survey by any third party.

SECTION 5. Notwithstanding any other provision of law, the Academic Standards Review Commission is subject to the Public Records Act, Chapter 132 of the General Statutes,



and the Open Meetings Law, Article 33C of Chapter 143 of the General Statutes. Additionally, the Commission shall have the duty to comply with all of the following:

- (1) All minutes, agendas, handouts, and presentations created during the course of the Commission's work, and any audio recordings of the Commission's meetings, shall be published on the Commission's Web site.
- (2) All official meetings, as that term is defined in G.S. 143-318.10, of the Commission shall be streamed live over the Internet in a manner that allows members of the public to listen to the proceedings.

SECTION 6. In implementing Section 2 of this act, the State Board of Education shall make reductions to the operating budget of the Department of Public Instruction and shall make no reduction to funding or positions for:

- (1) The North Carolina Center for Advancement of Teaching.
- (2) The Eastern North Carolina School for the Deaf, the North Carolina School for the Deaf, and the Governor Morehead School.
- (3) Communities in Schools of North Carolina, Inc.
- (4) Teach for America, Inc.
- (5) Beginnings For Parents of Children Who Are Deaf or Hard of Hearing, Inc.

SECTION 7. G.S. 62-302.1(d) reads as rewritten:

"§ 62-302.1. Regulatory fee for combustion residuals surface impoundments.

...
(d) Use of Proceeds. – A special fund in the Office of State Treasurer and the Coal Ash Management Commission is created. The fees collected pursuant to this section and all other funds received by the Coal Ash Management Commission shall be deposited in the Coal Combustion Residuals Management Fund. The Fund shall be placed in an interest-bearing account, and any interest or other income derived from the Fund shall be credited to the Fund. ~~Moneys in the Fund shall only be spent pursuant to appropriation by the General Assembly. Subject to appropriation by the General Assembly, twenty-six and one-half percent (26.5%) of the moneys in the Fund shall be used by the Coal Ash Management Commission and the remainder shall be used by the Department of Environment and Natural Resources. The Commission shall be subject to the provisions of the State Budget Act, except that no unexpended surplus of the Coal Combustion Residuals Management Fund shall revert to the General Fund. All funds credited to the Fund shall be used only to pay the expenses of the Coal Ash Management Commission and the Department of Environment and Natural Resources in providing oversight of coal combustion residuals.~~"

SECTION 8. Sections 15(c) through 15(e) of S.L. 2014-122 read as rewritten:

"SECTION 15.(c) ~~Twenty-five~~Up to twenty-five receipt-supported positions are created in the Department of Environment and Natural Resources to carry out the duties in Part 2I of Article 9 of Chapter 130A of the General Statutes. There is appropriated from the Coal Combustion Residuals Management Fund the sum of one million seven hundred fifty thousand dollars (\$1,750,000) to the Department of Environment and Natural Resources to support the positions for the 2014-2015 fiscal year.

SECTION 15.(d) Five receipt-supported positions are created in the Division of Emergency Management of the Department of Public Safety to carry out the duties in G.S. 130A-309.202. ~~The funds remaining in the Coal Combustion Residuals Management Fund after the appropriation to the Department of Environment and Natural Resources are appropriated to the Department of Public Safety for the 2014-2015 fiscal year. There is appropriated from the Coal Combustion Residuals Management Fund the sum of six hundred thirty thousand dollars (\$630,000) to the Department of Public Safety to support the positions for the 2014-2015 fiscal year.~~ These positions shall be used to provide assistance to the Coal Ash Management Commission established by G.S. 130A-309.202, as enacted by Section 3(a) of this act. The positions shall be assigned in the following manner: one of the positions shall be the executive director of the staff, two positions shall be assigned as analysts, one position shall be assigned as a technician, and one position shall be assigned as administrative. The Division of Emergency Management in the Department of Public Safety shall consult with the Chair of the Commission in hiring the staff for the Coal Ash Management Commission. The Division of Emergency Management in the Department of Public Safety shall provide support to the Commission until the staff of the Commission is hired, including the designation of an individual to serve as an interim executive director of the staff.

SECTION 15.(e) If the moneys in the Coal Combustion Residuals Management Fund are insufficient to support the appropriations set out in subsection 15(c) and subsection 15(d) of this section for the 2014-2015 fiscal year, then each appropriation is hereby reduced on a proportional basis.

SECTION 15.(e)SECTION 15.(f) Subsection (a) of this section becomes effective July 1, 2014, and expires April 1, 2030, and applies to jurisdictional revenues earned on or after July 1, 2014, and before April 1, 2030. The remainder of this section becomes effective July 1, 2014."

SECTION 9.(a) G.S. 143-215.31(a1) reads as rewritten:

"(a1) The owner of a dam classified by the Department as a high-hazard dam or an intermediate-hazard dam shall develop an Emergency Action Plan for the dam as provided in this subsection;

- (1) The owner of the dam shall submit a proposed Emergency Action Plan for the dam within 90 days after the dam is classified as a high-hazard dam or an intermediate-hazard dam to the Department and the Department of Public Safety for their review and approval. The Department and the Department of Public Safety shall approve the Emergency Action Plan if they determine that it complies with the requirements of this subsection and will protect public health, safety, and welfare; the environment; and natural resources.
- (2) The Emergency Action Plan shall include, at a minimum, all of the following:
 - a. A description of potential emergency conditions that could occur at the dam, including security risks.
 - b. A description of actions to be taken in response to an emergency condition at the dam.
 - c. Emergency notification procedures to aid in warning and evacuations during an emergency condition at the dam.
 - d. A downstream inundation map depicting areas affected by a dam failure and sudden release of the impoundment. A downstream inundation map prepared pursuant to this section does not require preparation by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer unless the dam is associated with a coal combustion residuals surface impoundment, as defined by G.S. 130A-309.201.

SECTION 9.(b) Section 8(b) of S.L. 2014-122 reads as rewritten:

"**SECTION 8.(b)** Notwithstanding G.S. 143-215.31, as amended by Section 8(a) of this act, the owners of all high-hazard dams and intermediate-hazard dams associated with coal combustion residuals surface impoundments, as defined by G.S. 130A-309.201, in operation on the effective date of this act shall submit their proposed Emergency Action Plans to the Department of Environment and Natural Resources and the Department of Public Safety no later than March 1, 2015. Notwithstanding G.S. 143-215.31, as amended by Section 8(a) of this act, the owners of all high-hazard dams and intermediate-hazard dams not associated with coal combustion residuals surface impoundments, as defined by G.S. 130A-309.201, in operation on the effective date of this act shall submit their proposed Emergency Action Plans to the Department of Environment and Natural Resources and the Department of Public Safety no later than December 31, 2015."

SECTION 9.(c) The Department of Environment and Natural Resources shall study whether, under certain circumstances, downstream inundation maps prepared pursuant to G.S. 143-215.31 should be prepared by a licensed professional engineer or a person under the responsible charge of a licensed professional engineer. The Department shall consult with the State Board of Examiners for Engineers and Surveyors in the conduct of this study. The Department shall report the results of this study to the Environmental Review Commission no later than March 31, 2016.

SECTION 10. G.S. 143B-431.01(d)(2)(c) reads as rewritten:

"(d) Limitations. – Prior to contracting with a North Carolina nonprofit corporation pursuant to this section and in order for the North Carolina nonprofit corporation to receive State funds, the following conditions shall be met:

- ...
- (2) The nonprofit corporation adheres to the following governance provisions related to its governing board:

...
c. No State officer or employee may serve on the board.
.....

SECTION 11.(a) Notwithstanding G.S. 143C-6-4 or any other provision of law, the sum of two million dollars (\$2,000,000) appropriated to the Department of Health and Human Services, Division of Central Management and Support, for the health information exchange for the 2014-2015 fiscal year shall be nonrecurring. The Department shall not, under any circumstances, use any portion of this two million dollars (\$2,000,000) in nonrecurring funds for any purpose not expressly authorized under section 12A.2 of S.L. 2014-100, as amended by this act. Any funds that are not expended or encumbered as of June 30, 2015, shall revert to the General Fund.

SECTION 11.(b) Section 12A.2 of S.L. 2014-100 reads as rewritten:

~~"SECTION 12A.2.(a) It is the intent of the General Assembly:~~

- ~~(1) To maximize receipt of federal funds for administration and support of the statewide health information exchange network (HIE Network).~~
- ~~(2) To allow the North Carolina Health Information Exchange (NC HIE), the nonprofit corporation responsible for overseeing and administering the HIE Network, to receive the State's share of available federal funds for administration and support of the HIE Network in order to reduce the operating costs of the HIE Network by an amount sufficient to allow for the elimination or reduction of the participation fee the NC HIE currently imposes on hospitals required to connect to the HIE Network pursuant to G.S. 90-413.3A.~~
- ~~(3) Beginning with the 2015-2016 fiscal year, to make the Department of Health and Human Services, Division of Central Management and Support, responsible for using State funds to draw down available matching federal funds for administration and support of the HIE Network.~~

SECTION 12A.2.(b) From the nonrecurring funds appropriated in this act to the Department of Health and Human Services, Division of Central Management and Support, for the health information exchange for the 2014-2015 fiscal year, the Department shall allocate to the North Carolina Health Information Exchange, Exchange (NC HIE), a nonprofit corporation, an amount sufficient to represent the State share for the maximum amount of approved federal matching funds for allowable Medicaid administrative costs related to the HIE Network, the following amounts to be used to fund the following expenses incurred or encumbered by the NCHIE during the period commencing February 1, 2015, and ending June 30, 2015:

- (1) Four hundred thirty-six thousand ten dollars (\$436,010) to be used for software vendor maintenance, hosting, and licensing costs due under the technology vendor contract currently in effect between NCHIE and Orion.
- (2) Three hundred fifty-six thousand nine hundred twenty dollars (\$356,920) to be used for NCHIE payroll costs.
- (3) Ninety-two thousand one hundred sixty dollars (\$92,160) to be used for operational expenses.

SECTION 12A.2.(b1) The Department shall, within five days of this act becoming law, process the payment for the expenses allowed in subsection (b) of this section and incurred or encumbered between February 1, 2015, and June 30, 2015. The NC HIE shall not use any portion of the funds allocated to the NC HIE pursuant to subsection (b) of this section for expenses incurred or encumbered prior to February 1, 2015, or for any other purpose not expressly authorized under subsection (b) of this section.

SECTION 12A.2.(b2) In addition to the allocations authorized under subsection (b) of this section, of the two million dollars (\$2,000,000) of nonrecurring funds appropriated to the Department of Health and Human Services, Division of Central Management and Support, for the health information exchange for the 2014-2015 fiscal year, the Department shall transfer the sum of one hundred fifty thousand dollars (\$150,000) to the Office of the State Chief Information Officer (SCIO). The SCIO, in conjunction with the Department, shall use these funds to conduct an assessment of the existing functionality, structure, and operation of the HIE Network.

SECTION 12A.2.(c) By March 1, 2015, the NC HIE shall report to the Joint Legislative Oversight Committee on Health and Human Services, the Joint Legislative Oversight Committee on Information Technology, and the Fiscal Research Division May 1, 2015, the

Department shall submit to the House Appropriations Committee on Health and Human Services, the Senate Appropriations Committee on Health and Human Services, the Joint Legislative Oversight Committees on Health and Human Services and Information Technology, and the Fiscal Research Division a report on its use of (i) all State appropriations allocated to or on behalf of the NC HIE pursuant to this section and (ii) federal matching funds received by the NC HIE for costs related to the HIE Network. The report shall include a detailed, audited report of all State and federal funds received by the NC HIE and all expenditures from these funds.

SECTION 12A.2.(d) By June 1, 2015, the Department, in conjunction with the Office of the SCIO, shall submit to the Joint Legislative Oversight Committees on Health and Human Services and Information Technology and to the Fiscal Research Division the results of the results of the assessment conducted pursuant to subsection (b2) of this section.

SECTION 12A.2.(e) It is the intent of the General Assembly to continue efforts towards the implementation of a statewide HIE."

SECTION 11.5.(a) The State Auditor shall conduct a performance audit of county departments of social services' administration of the North Carolina Medicaid program. The audit shall examine the county departments of social services' accuracy in determining eligibility for Medicaid and their compliance with the requirements of the Centers for Medicare and Medicaid Services and State law. The audit shall also consider the impact of the Department of Health and Human Services' policy decisions related to re-enrollment eligibility determinations. In conducting the audit, the auditor shall ensure:

- (1) A representative sample of counties, including both urban and rural counties, is audited.
- (2) A statistically significant number of cases are audited in each county in the sample.

SECTION 11.5.(b) The audit required by Section 11.5(a) shall include the State Auditor's examination of at least all of the following:

- (1) The accuracy of Medicaid application eligibility determinations.
- (2) The timeliness of Medicaid application determinations.
- (3) The accuracy of Medicaid re-enrollment eligibility determinations.
- (4) The timeliness of Medicaid re-enrollment eligibility determinations.
- (5) The accuracy of presumptive Medicaid application determinations.
- (6) The timeliness of presumptive Medicaid application determinations.
- (7) The controls and oversight county departments of social services have in place to ensure accurate and timely processing of Medicaid applications and re-enrollment.

SECTION 11.5.(c) The State Auditor shall submit a preliminary report on the performance audit required by this section to the Joint Legislative Oversight Committee on Health and Human Services and to the Fiscal Research Division by June 1, 2015, and shall complete the performance audit by February 1, 2016. The Department of Health and Human Services and county departments of social services shall give the State Auditor full access to all data necessary to complete the audit and the report.

SECTION 12. Sections 7 and 8 of this act become effective July 1, 2014. Section 9 of this act is effective retroactively to September 20, 2014. Section 11 of this act is effective when it becomes law or June 30, 2015, whichever is earlier. The remainder of this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 1st day of April, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Tim Moore
Speaker of the House of Representatives

This bill having been presented to the Governor for signature on the 1st day of April, 2015, and the Governor having failed to approve it within the time prescribed by law, the same is hereby declared to have become a law. This 13th day of April, 2015.

s/ Karen Jenkins
Enrolling Clerk