

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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HOUSE BILL 1852*

Short Title: Nonprofit Grants/Increase Accountability. (Public)

Sponsors: Representatives Cole, Crawford (Primary Sponsors); Farmer-Butterfield, Glazier, Hughes, Insko, and Spear.

Referred to: State Government/State Personnel, if favorable, Judiciary II.

May 20, 2010

A BILL TO BE ENTITLED
AN ACT TO IMPROVE THE OVERSIGHT OF STATE GRANTS TO NON-STATE ENTITIES AND TO INCREASE THE ACCOUNTABILITY OF GRANTEEES WHO RECEIVE STATE GRANTS, AS RECOMMENDED BY THE JOINT LEGISLATIVE PROGRAM EVALUATION OVERSIGHT COMMITTEE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 143C-6-23 reads as rewritten:

"§ 143C-6-23. State grant funds: administration; oversight and reporting requirements.

(a) Definitions. – The following definitions apply in this section:

(1) "Grant" and "grant funds" means State funds disbursed as a grant by a State agency; however, the terms do not include any payment made by the Medicaid program, the State Health Plan for Teachers and State Employees, or other similar medical programs.

(2) "Grantee" means a non-State entity that receives State funds as a grant from a State agency but does not include any non-State entity subject to the audit and other reporting requirements of the Local Government Commission.

(3) "Subgrantee" means a non-State entity that receives State funds as a grant 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.

(b) Conflict of Interest Policy. – Every grantee shall file with the State agency disbursing funds to the grantee a copy of that grantee's policy addressing conflicts of interest that may arise involving the grantee's management employees and the members of its board of directors or other governing body. The policy shall address situations in which any of these individuals may directly or indirectly benefit, except as the grantee's employees or members of its board or other governing body, from the grantee's disbursing of State funds, and shall include actions to be taken by the grantee or the individual, or both, to avoid conflicts of interest and the appearance of impropriety. The policy shall be filed before the disbursing State agency may disburse the grant funds.

(c) No Overdue Tax Debts. – Every grantee shall file with the State agency or department disbursing funds to the grantee a written statement completed by that grantee's board of directors or other governing body stating that the grantee does not have any overdue tax debts, as defined by G.S. 105-243.1, at the federal, State, or local level. The written statement shall be made under oath and shall be filed before the disbursing State agency or department may disburse the grant funds. A person who makes a false statement in violation of this subsection is guilty of a criminal offense punishable as provided by G.S. 143C-10-1.



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1 (d) Office of State Budget Rules Must Require Uniform Administration of State Grants.
2 – The Office of State Budget and Management shall adopt rules to ensure the uniform
3 administration of State grants by all grantor State agencies and grantees or subgrantees. The
4 Office of State Budget and Management shall consult with the Office of the State Auditor and
5 the Attorney General in establishing the rules required by this subsection. The rules shall
6 establish policies and procedures for disbursements of State grants and for State agency
7 oversight, monitoring, and evaluation of grantees and subgrantees. The policies and procedures
8 shall:

- 9 (1) Ensure that the purpose and reporting requirements of each grant are
10 specified to the grantee.
11 (2) Ensure that grantees specify the purpose and reporting requirements for
12 grants made to subgrantees.
13 (2a) Require each contract that awards a grant to include all of the following:
14 a. Concrete, measurable benchmarks against which to measure success.
15 The benchmarks shall address the expected quantifiable outputs and
16 outcomes.
17 b. Identification of program performance measures that will be used to
18 compare quantifiable outputs and outcomes against the benchmarks
19 established in contracts pursuant to this subdivision.
20 c. For purposes of this subdivision the term "output" means quantified
21 activities performed by the grantee and the term "outcome" means
22 what happens as a result of the grantee's activities.
23 (3) Ensure that State funds are spent in accordance with the purposes for which
24 they were granted.
25 (4) Hold the grantees and subgrantees accountable for the legal and appropriate
26 expenditure of grant funds.
27 (5) Provide for adequate oversight and monitoring to prevent the misuse of grant
28 funds.
29 (5a) Establish the criteria for grants from which oversight costs may be withheld
30 by a State agency pursuant to subsection (f1) of this section.
31 (5b) Provide procedures for the determination of the amount of a grant that may
32 be withheld for administrative costs pursuant to subsection (f1) of this
33 section.
34 (6) Establish mandatory periodic reporting requirements for grantees and
35 subgrantees, including methods of reporting, to provide financial ~~and~~
36 ~~program performance~~ information. The mandatory periodic reporting
37 requirements shall require grantees and subgrantees to file with the State
38 Auditor copies of reports and statements that are filed with State agencies
39 pursuant to this subsection. Compliance with the mandatory periodic
40 reporting requirements of this subdivision shall not require grantees and
41 subgrantees to file with the State Auditor the information described in
42 subsections (b) and (c) of this section.
43 (6a) Establish mandatory periodic reporting requirements for grantees and
44 subgrantees, including reporting on benchmarks set out in the contract
45 awarding the grant pursuant to subdivision (2a) of this subsection by means
46 of performance measures identified in the contract. Performance reporting
47 shall be reviewed by the State agency overseeing the grant on an ongoing
48 basis. The State agency overseeing the grant shall submit an annual
49 performance report to the Office of State Budget and Management.
50 (7) Require grantees and subgrantees to maintain reports, records, and other
51 information to properly account for the expenditure of all grant funds and to

1 make such reports, records, and other information available to the grantor
2 State agency for oversight, monitoring, and evaluation purposes.

3 (8) Require grantees and subgrantees to ensure that work papers in the
4 possession of their auditors are available to the State Auditor for the
5 purposes set out in subsection (i) of this section.

6 (9) Require grantees to be responsible for managing and monitoring each
7 project, program, or activity supported by grant funds and each subgrantee
8 project, program, or activity supported by grant funds.

9 (9a) Require a State agency that oversees a grant program to develop a
10 monitoring plan for that program. The State agency shall provide a
11 description of its monitoring plan and any additional information regarding
12 that plan to the Office of State Budget and Management.

13 (10) Provide procedures for the suspension of further disbursements or use of
14 grant funds for noncompliance with these rules or other inappropriate use of
15 the funds.

16 (11) Provide procedures for use in appropriate circumstances for reinstatement of
17 disbursements that have been suspended for noncompliance with these rules
18 or other inappropriate use of grant funds.

19 (12) Provide procedures for the recovery and return to the grantor State agency of
20 unexpended grant funds from a grantee or subgrantee if the grantee or
21 subgrantee is unable to fulfill the purposes of the grant.

22 (e) Rules Are Subject to the Administrative Procedure Act. – Notwithstanding the
23 provisions of G.S. 150B-2(8a)b. rules adopted pursuant to subsection (d) of this section are
24 subject to the provisions of Chapter 150B of the General Statutes.

25 (f) Suspension and Recovery of Funds to Grant Recipients for Noncompliance. – The
26 Office of State Budget and Management, after consultation with the administering State
27 agency, shall have the power to suspend disbursement of grant funds to grantees or
28 subgrantees, to prevent further use of grant funds already disbursed, and to recover grant funds
29 already disbursed for noncompliance with rules adopted pursuant to subsection (d) of this
30 section. In addition, the Office of the Controller shall electronically stop payments to a grantee
31 upon notification by the Office of State Budget and Management to suspend disbursement of
32 funds to the grantee.

33 If the grant funds are a pass-through of funds granted by an agency of the United States,
34 then the Office of State Budget and Management must consult with the granting agency of the
35 United States and the State agency that is the recipient of the pass-through funds prior to taking
36 the actions authorized by this subsection.

37 "(f1) Withholding From Certain Grants To Cover Agency Oversight Cost. – A State
38 agency that oversees a grant may withhold up to two percent (2%) of the amount of the grant
39 awarded each fiscal year to cover grant oversight costs pursuant to this subsection if the grant
40 satisfies the criteria established by the Office of State Budget and Management. No State
41 agency shall withhold funds under this subsection until the State agency submits a written
42 request to the Office of State Budget and Management that sets out the oversight
43 responsibilities of the agency with regard to the grant, the amount that the agency is requesting
44 to withhold from the grant for the fiscal year, and receives approval from the Office of State
45 Budget and Management to withhold funds to cover the oversight costs. An agency may
46 withhold only the amount approved by the Office of State Budget and Management. The Office
47 of State Budget and Management shall determine whether it is appropriate to allow the
48 withholding under this section, and if so, the amount that may be withheld by the State agency.
49 The Office of State Budget and Management shall notify the State agency in writing of the
50 approval or disapproval of the request, and if approved, that amount that may be withheld.

1 If a State agency does receive approval under this section to withhold a percentage of the
2 amount of the grant awarded, then the agency shall reserve one-half of one percent (.5%) of the
3 amount authorized by State Budget and Management to be withheld by the agency and shall
4 transfer those funds to the Office of State Budget and Management at the time the grant funds
5 are disbursed. The Office of State Budget and Management shall use the funds transferred from
6 the agency to cover costs related to statewide oversight of grants to non-state entities.

7 Funds shall not be withheld under this subsection for the purpose of covering oversight
8 costs if the grant is a pass-through of funds granted by an agency of the United States and the
9 terms of the federal grant prohibit the withholding of funds described by this subsection."

10 (g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds
11 received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General
12 Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee
13 or subgrantee must, upon request, furnish to the State Auditor for audit all books, records, and
14 other information necessary for the State Auditor to account fully for the use and expenditure
15 of grant funds received by the grantee or subgrantee. The grantee or subgrantee must furnish
16 any additional financial or budgetary information requested by the State Auditor, including
17 audit work papers in the possession of any auditor of a grantee or subgrantee directly related to
18 the use and expenditure of grant funds.

19 (h) Report on Grant Recipients That Failed to Comply. – Not later than May 1, 2007,
20 and by May 1 of every succeeding year, the Office of State Budget and Management shall
21 report to the Joint Legislative Commission on Governmental Operations and the Fiscal
22 Research Division on all grantees or subgrantees that failed to comply with this section with
23 respect to grant funds received in the prior fiscal year.

24 (i) State Agencies to Submit Grant List to Auditor. – No later than October 1 of each
25 year, each State agency shall submit a list to the State Auditor, in the format prescribed by the
26 State Auditor, of every grantee to which the agency disbursed grant funds in the prior fiscal
27 year. The list shall include the amount disbursed to each grantee and other information as
28 required by the State Auditor to comply with the requirements of this section."

29 **SECTION 2.** G.S. 143C-6-23(d) as amended by Section 1 of this act is amended
30 by adding a new subdivision to read:

31 "(7a) Require grantees to submit cash-basis reporting within 90 days of the end of
32 the State fiscal year."

33 **SECTION 3.** Section 2 of this act becomes effective July 1, 2012. The remainder
34 of this act becomes effective July 1, 2010.