

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

**SESSION LAW 2007-117
SENATE BILL 1119**

AN ACT TO MAKE TECHNICAL CORRECTIONS IN THE STATE BUDGET ACT, TO MAKE TECHNICAL CORRECTIONS IN CERTAIN OTHER STATUTES THAT WERE AMENDED BECAUSE CONFORMING CHANGES WERE REQUIRED BY THE ENACTMENT OF THE STATE BUDGET ACT, TO TRANSFER THE PROVISIONS CURRENTLY IN THE EXECUTIVE BUDGET ACT REGARDING FLEXIBLE COMPENSATION TO CHAPTER 126 OF THE GENERAL STATUTES AND CLARIFY THAT THOSE PROVISIONS CONTINUE TO APPLY TO THE SAME STATE EMPLOYEES, AND TO CLARIFY THAT THE PROVISIONS REGARDING DISCONTINUED SERVICE RETIREMENT ALLOWANCE AND SEVERANCE WAGES FOR CERTAIN STATE EMPLOYEES THAT CURRENTLY APPEAR IN THE EXECUTIVE BUDGET ACT BUT THAT ARE TRANSFERRED TO CHAPTER 126 OF THE GENERAL STATUTES EFFECTIVE JULY 1, 2007, SHALL CONTINUE TO COVER THE SAME STATE EMPLOYEES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 116-14(b1) reads as rewritten:

"(b1) **(Effective July 1, 2007)** The President shall receive General Fund appropriations made by the General Assembly for continuing operations of The University of North Carolina that are administered by the President and the President's staff complement established pursuant to G.S. 116-14(b) in the form of a single sum to ~~Budget Code 16011~~ Budget Code 16010 of The University of North Carolina in the manner and under the conditions prescribed by G.S. 116-30.2. The President, with respect to the foregoing appropriations, shall have the same duties and responsibilities that are prescribed by G.S. 116-30.2 for the Chancellor of a special responsibility constituent institution. The President may establish procedures for transferring funds from ~~Budget Code 16011~~ Budget Code 16010 to the constituent institutions for nonrecurring expenditures. The President may identify funds for capital improvement projects from ~~Budget Code 16011~~, Budget Code 16010, and the capital improvement projects may be established following the procedures set out in G.S. 143C-8-8 and G.S. 143C-8-9."

SECTION 2. G.S. 120-76(8) reads as rewritten:

"(8) **(Effective July 1, 2007)** The Joint Legislative Commission on Governmental Operations shall be consulted by the Governor before the Governor does any of the following:

- a. ~~Makes allocations from the Contingency and Emergency Fund.~~

- b. Authorizes expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.
- c. Proceeds to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
- d. Takes extraordinary measures under Article III, Section 5(3) of the Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, the following: loans among funds, personnel freezes or layoffs, capital project reversions, program eliminations, and use of reserves. However, if the Committee fails to meet within 10 calendar days of a request by the Governor for its consultation, the Governor may proceed to take the actions he feels are appropriate and necessary and shall then report those actions at the next meeting of the Commission.
- e. Approves a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures."

SECTION 3.(a) Chapter 126 of the General Statutes is amended by adding a new Article to read:

"Article 16.

"Flexible Compensation Plan.

"§ 126-95. Flexible compensation plan.

(a) The Director of the Budget may provide eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 a program of dependent care assistance as available under section 129 and related sections of the Internal Revenue Code of 1986, as amended. The Director of the Budget may authorize State departments, institutions, and agencies to enter into annual agreements with employees who elect to participate in the program to provide for a reduction in salary. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a program of dependent care assistance, the Director of the Budget may select a contractor only upon a thorough and completely competitive procurement process.

(b) Notwithstanding any other provisions of law relating to the salaries of officers and employees of departments, institutions, and agencies of State government,

the Director of the Budget may provide a plan of flexible compensation to eligible officers and employees of State departments, institutions, and agencies not covered by the provisions of G.S. 116-17.2 for benefits available under section 125 and related sections of the Internal Revenue Code of 1986, as amended. This plan shall not replace, substitute for, or duplicate any benefits provided to employees and officers under Article 1A of Chapter 120 of the General Statutes and Articles 1, 3, 4, and 6 of Chapter 135 of the General Statutes. The plan may, however, include offerings for products and benefits that are supplemental or additional to these statutory benefits. In providing a plan of flexible compensation, the Director of the Budget may authorize State departments, institutions, and agencies to enter into agreements with their employees for reductions in the salaries of employees electing to participate in the plan of flexible compensation provided by this section. With the approval of the Director of the Budget, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may be used to pay some or all of the administrative expenses of the program. Should the Director of the Budget decide to contract with a third party to administer the terms and conditions of a plan of flexible compensation as provided by this section, it may select such a contractor only upon a thorough and completely advertised competitive procurement process."

SECTION 3.(b) G.S. 126-5 is amended by adding the following new subsections to read:

"(c9) Notwithstanding any other provision of this section, the provisions of Article 16 of this Chapter shall apply to all exempt and nonexempt State employees in the executive, legislative, and judicial branches unless provided otherwise by Article 16 of this Chapter. The provisions of Article 16 of this Chapter shall not apply to employees described in subdivisions (2) and (3) of subsection (a) of this section.

(c10) Notwithstanding any other provision of this section, the provisions of G.S. 126-8.5 shall apply to all exempt and nonexempt State employees in the executive, legislative, and judicial branch unless provided otherwise by G.S. 126-8.5. The provisions of G.S. 126-8.5 shall not apply to employees described in subdivisions (2) and (3) of subsection (a) of this section."

SECTION 3.(c) Article 6 of Chapter 143C of the General Statutes is amended by adding a new section to read:

"§ 143C-6-10. Flexible compensation plan.

Notwithstanding any other provision of law, the Director may establish a program of dependent care assistance and a flexible compensation plan for eligible officers and employees of State agencies as provided in G.S. 126-95. With the approval of the Director, savings in the employer's share of contributions under the Federal Insurance Contributions Act on account of the reduction in salary may also be used as provided by G.S. 126-95."

SECTION 4. G.S. 143C-6-4 is amended by adding a new subsection to read:

"(h) **Transfers Within the Office of the Governor.** – Transfers or changes as between objects or line items in the budget of the Office of the Governor may be made by the Governor."

SECTION 5.(a) G.S. 143C-3-3(c) reads as rewritten:

"(c) Repairs and Renovations Funds Request. – In addition to any other information requested by the Director, any State agency proposing to repair or renovate an existing facility shall accompany that request with all of the following:

- (1) A description of current deficiencies and proposed corrections with a review and evaluation of that proposal prepared by the Department of Administration.
- (2) An estimate of project costs ~~and cash flow requirements~~ approved by the Department of Administration.
- (3) A certification of project feasibility as described in G.S. 143-341.
- (4) An explanation of the method by which the repair or renovation is to be financed."

SECTION 5.(b) G.S. 143C-8-6(c) reads as rewritten:

"(c) Repairs and Renovations in the Budget Support Document. – The Budget Support Document shall contain for each repair and renovation project recommended in accordance with 143C-8-6(b): (i) a project description and justification, (ii) a detailed cost estimate, ~~(iii) an estimated schedule of cash flow requirements over the life of the project,~~ ~~(iv)~~ (iii) an estimated schedule for the completion of the project, and ~~(v)~~ (iv) an explanation of the means of financing."

SECTION 6. G.S. 143C-8-10(a) reads as rewritten:

"(a) Project Reserve Account. ~~—The Project Reserve Account is created as a reserve account within the Capital Project Fund. There is established a Project Reserve Account.~~ When a construction contract is entered for a capital improvement project for which the General Assembly has enacted an appropriation, the appropriation is encumbered for the project's costs of real property acquisition, planning, design, site development, construction, contingencies, and other related costs. If the amount appropriated for the project exceeds the amount encumbered, the excess shall be credited to the Project Reserve Account, unless otherwise required by law. The Director may authorize funds in the Account to be used for any of the following:

- (1) An emergency repair and renovation project at a State facility.
- (2) The award of a project contract when bids for the contract exceed the amount appropriated for it if the project was designed within the scope intended by the appropriation and if the Director finds that all means to award the contract within the appropriation were reasonably attempted.
- (3) A reversion to the principal fund from which revenue was appropriated for a project when the amount encumbered for the project is less than the amount appropriated."

SECTION 7. G.S. 143C-9-1 reads as rewritten:

"§ 143C-9-1. (Effective July 1, 2007) Medicaid Special Fund; transfers to Department of Health and Human Services.

(a) The Medicaid Special Fund is established as a nonreverting special fund in the Department of Health and Human Services. The Medicaid Special Fund shall consist of the federal Medicaid disproportionate share monies remaining after payments are made to hospitals. Annually, the Department shall transfer the disproportionate share gain, after payments are made to hospitals, to the Medicaid Special Fund. Funds

deposited to the Medicaid Special Fund shall only be available for expenditure upon an act of appropriation of the General Assembly.

Political subdivisions may appropriate funds directly to the Department of Health and Human Services for Medicaid programs. Other public agencies and private sources may transfer funds to the Department for Medicaid programs. The Department may accept unconditional and unrestricted donations of such funds. Notwithstanding the provisions of this Article which might forbid such transfer or donation, the University of North Carolina Hospitals at Chapel Hill may transfer funds as provided by the previous sentence of this section.

(b) Contributed funds shall be subject to the Department of Health and Human Services administrative control and shall be allocated only as specifically provided in the Current Operations Appropriations Act, except such contributions shall not reduce State general revenue funding. At the end of any fiscal year, the unobligated balance of any such funds shall not revert to the General Fund, but shall be reappropriated for these purposes in the next fiscal year."

SECTION 8. This act becomes effective July 1, 2007.

In the General Assembly read three times and ratified this the 19th day of June, 2007.

s/ Beverly E. Perdue
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 5:17 p.m. this 27th day of June, 2007