

State Government

The General Assembly enacted two general reform measures in 2007, eliminating the Commission on State Property and prohibiting state investments in certain companies with activities related to Sudan. Efforts were also made to improve state government accountability. Finally, in response to pressure from advocates and the media, the General Assembly enacted legislation to make the University of North Carolina Health Care System's debt collection practices more "patient friendly."

Commission on State Property

In 2004 the General Assembly established the sixteen-member Commission on State Property to identify surplus state-owned property that would then be sold. During its three-year existence, the commission failed to sell any surplus property. The commission also came under scrutiny in 2007 for possible conflicts of interest. S.L. 2007-12 (H 1012) abolishes the Commission on State Property by repealing Article 78 of G.S. Chapter 143. In addition, S.L. 2007-12 provides that no finding that a property is or should be surplus that was made by the commission before its abolition is binding on the Department of Administration.

Sudan Divestment Act

In light of the genocide in Sudan and the federal government's actions to denounce the activities taking place in Sudan, the General Assembly enacted S.L. 2007-486 (H 291) prohibiting investments in companies with active business operations related to Sudan. S.L. 2007-486 requires the Public Fund to identify all scrutinized companies in which the fund has direct or indirect holdings or could have such holdings in the future. The *Public Fund* is defined as any funds held by the State Treasurer to the credit of (1) the Teachers' and State Employees' Retirement System, (2) the Consolidated Judicial Retirement System, (3) the Firemen's and Rescue Workers' Pension Fund, (4) the Local Governmental Employees' Retirement System, (5) the Legislative Retirement System, (6) the Legislative Retirement Fund, or (7) the North Carolina National Guard Pension Fund. The Public Fund is required to file an annual report to the General Assembly that includes

the scrutinized companies list. A *scrutinized company* is a company that meets one of the following criteria:

- The company has business operations that involve contracts with or provision of supplies or services to (1) the government of Sudan, (2) companies in which the government of Sudan has any direct or indirect equity share, (3) government of Sudan-commissioned consortiums or projects, or (4) companies involved in government of Sudan-commissioned consortiums or projects where a specified amount of income comes from Sudan-related industrial activities.
- The company is complicit in the Darfur genocide.
- The company supplies military equipment within Sudan, unless the company can show that the equipment cannot be used to facilitate offensive military actions in Sudan or the company implements safeguards to prevent use of the equipment by forces participating in armed conflict.

The Public Fund must sell, redeem, divest, or withdraw all publicly traded securities of a company that continues to have scrutinized active business operations within fifteen months after the company's most recent appearance on the scrutinized companies list. The Public Fund is allowed to stop divesting from or to reinvest in certain scrutinized companies if evidence shows that the value of all assets managed by the Public Fund becomes equal to or less than 99.50 percent of the hypothetical value of all assets under management by the Public Fund, assuming that no divestment for any company had occurred. The Public Fund is required to report to the General Assembly in advance of a reinvestment, on the reasons and justification for its decisions to stop divestment, reinvest, or remain invested in companies with scrutinized active business operations.

The act expires if the United States revokes all sanctions imposed against the government of Sudan or if the United States Congress or President declares any of the following: (1) that the Darfur genocide has been halted for at least twelve months, (2) that the government of Sudan has honored its commitments to cease attacks on civilians, demobilize and demilitarize the Janjaweed and associated militias, grant free and unfettered access for deliveries of humanitarian assistance, and allow for the safe and voluntary return of refugees and internally displaced persons, or (3) that mandatory divestment of the type provided for in the act interferes with the conduct of United States foreign policy.

State Government Accountability

S.L. 2007-520 (H 1551) enacts new Chapter 143D of the General Statutes, effective January 1, 2008, requiring state agencies to establish and maintain a system of internal control in accordance with standards and policies to be established by the State Controller. The purpose of the new chapter is to improve internal control within state government and to clarify responsibilities for internal control. The new law applies to every entity for which the state has oversight responsibility, including universities, hospitals, community colleges, and clerks of court. The act defines *internal control* as a process "designed to provide reasonable assurance regarding the achievement of objectives related to the effectiveness and efficiency of operations, reliability of financial reporting, and compliance with applicable laws and regulations." Each state agency is required to maintain documentation and submit periodic certified financial reports to the State Controller. A state employee's willful or continued failure to comply with the new law is sufficient cause for disciplinary action, including dismissal.

S.L. 2007-424 (H 1401) enacts new Article 79 of G.S. Chapter 143 to require certain state agencies to establish an internal auditing program if they have an annual operating budget of more than \$10 million, have more than 100 full-time equivalent employees, or receive and process more than \$10 million in a fiscal year. The term *state agency* includes each department created pursuant to G.S. Chapter 143A or 143B, the judicial branch of state government, the University of North Carolina, and the Department of Public Instruction.

The internal auditing program must, among other things, provide an effective system of internal controls that safeguards public funds and assets and minimizes incidences of fraud, waste, and abuse. The new law also sets out requirements and standards for internal auditing programs and the minimum qualifications of internal auditors. The act establishes the Council of Internal Auditing, which is supported by the Office of State Budget and Management and consists of five ex-officio members as well as the State Auditor, who is a nonvoting member. The council's duties include developing guidelines and best audit practices, administering a peer review system for audits, and conducting hearings regarding effectiveness of or interference with internal auditing.

Bonds for Special Purpose Projects

S.L. 2007-128 (S 966) amends G.S. 159C-3(15a) to add the following three types of projects to the special projects for which the North Carolina Capital Facilities Finance Agency may issue bonds:

1. Facilities for the provision of material salvage and recycling services, the proceeds of which must be used to provide low, moderate, or affordable housing.
2. Research facilities owned or operated by a nonprofit corporation incorporated by two or more accredited universities that have main campuses located in the state or by the universities' Chancellor, President, or similar official of those universities.
3. Facilities for housing international headquarters of a nonprofit scholarly society that is a member of the Scholarly Societies Project.

UNC Health Care System Debt Collection

S.L. 2007-306 (H 646) is intended to make the collection of money owed by patients to the UNC Health Care System more patient friendly. The act amends G.S. 147-86.11(e) by excluding money owed by UNC Health Care System patients from those accounts receivable required to be turned over the Attorney General for collection within ninety days after payment is due. Instead, UNC Health Care System *may* turn accounts over to the Attorney General for collection. Under G.S. 147-86.23, state agencies are required to charge interest on past-due accounts. S.L. 2007-306 amends the statute to exempt from this requirement money that is owed to the UNC Health Care System for health care services. The act also amends G.S. 116-37(f) by removing the \$7,500 per patient per admission cap on the amount that the UNC Health Care system may expend for the benefit of a patient. The expenditure of operating funds to place a patient in an after-care facility is also allowed whether or not the placement is pending approval of third-party benefits. Finally, the act amends G.S. 143-553(a) to prohibit a state agency, city or county board of education, or community college board of trustees from terminating an employee because the employee owes money to the UNC Health Care System for health care services.

Christine B. Wunsche