

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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HOUSE BILL 244  
Committee Substitute Favorable 6/7/11  
Senate Insurance Committee Substitute Adopted 6/6/12  
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Short Title: State Health Plan/Add Schools; Whistleblowers.

(Public)

Sponsors:

Referred to:

March 8, 2011

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE STERLING MONTESSORI ACADEMY AND CHARTER SCHOOL, THE CASA ESPERANZA MONTESSORI CHARTER SCHOOL, AND KESTREL HEIGHTS SCHOOL TO ELECT TO PARTICIPATE IN THE STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES AND TO PROVIDE PROTECTIONS FOR WHISTLE-BLOWERS ALLEGING FRAUD OR OTHER MISCONDUCT RELATED TO THE STATE HEALTH PLAN.

The General Assembly of North Carolina enacts:

**SECTION 1.** Notwithstanding the time limitation contained in G.S. 135-48.54(a), the Boards of Directors of (i) Sterling Montessori Academy and Charter School, located in Morrisville, North Carolina, (ii) the Casa Esperanza Montessori Charter School, located in Raleigh, North Carolina, and (iii) Kestrel Heights School, located in Durham, North Carolina, may elect to become participating employing units in the State Health Plan for Teachers and State Employees in accordance with Article 3B of Chapter 135 of the General Statutes. The election authorized by this section shall be made no later than 30 days after the effective date of this act and shall be made in accordance with all other requirements of G.S. 135-48.54.

**SECTION 2.** Article 1 of Chapter 22B of the General Statutes is amended by adding a new section to read as follows:

**"§ 22B-4. Prohibition on contract provisions restricting whistle-blowing related to State Health Plan.**

A provision in any contract is void and against public policy if it prohibits an employee's or contractor's ability to report wrongdoing under G.S. 135-48.15 related to the State Health Plan."

**SECTION 3.** Part 1 of Article 3B of Chapter 135 of the General Statutes is amended by adding a new section to read as follows:

**"§ 135-48.15. Whistle-blower protections related to the State Health Plan.**

(a) Statement of Public Policy. – It is the policy of this State that persons shall be encouraged to report verbally or in writing to the State Health Plan, Attorney General, or other appropriate authority evidence of activity related to the State Health Plan and involving the following:

- (1) A violation of State or federal law, rule, or regulation.
- (2) Fraud.
- (3) Misappropriation of State resources.
- (4) Gross mismanagement, a gross waste of monies, or gross abuse of authority.



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1 Further, it is the policy of this State that persons shall be free of intimidation or harassment  
2 when reporting matters of public concern related to the State Health Plan, including offering  
3 testimony to or testifying before appropriate legislative panels.

4 (b) Protection From Retaliation. – No employer shall sue, discharge, threaten, or  
5 otherwise discriminate against an employee regarding the employee's compensation, terms,  
6 conditions, location, or privileges of employment because the employee, or a person acting on  
7 behalf of the employee, reports or is about to report, verbally or in writing, any activity  
8 described in subsection (a) of this section, unless the employee knows or has reason to believe  
9 that the report is inaccurate. No other employee of an employer shall retaliate against another  
10 employee because the employee, or a person acting on behalf of the employee, reports or is  
11 about to report, verbally or in writing, any activity described in subsection (a) of this section.  
12 No person shall sue, terminate a contract, threaten, or otherwise discriminate against a reporting  
13 person regarding the reporting person's compensation or terms of contract because the reporting  
14 person, or a person acting on behalf of the reporting person, reports or is about to report,  
15 verbally or in writing, any activity described in subsection (a) of this section, unless the  
16 reporting person knows or has reason to believe that the report is inaccurate.

17 (c) Relief for Violation. – Any person injured by a violation of subsection (b) of this  
18 section may maintain an action in superior court for damages, an injunction, or other remedies  
19 provided in this section against the person who committed the violation within one year after  
20 the occurrence of the alleged violation of this Article.

21 (d) Remedies. – A court, in rendering a judgment in an action brought pursuant to this  
22 section, may order an injunction, damages, reinstatement of the employee, the payment of back  
23 wages or payments owed under a contract, full reinstatement of fringe benefits and seniority  
24 rights, costs, reasonable attorneys' fees, or any combination of these. If an application for a  
25 permanent injunction is granted, the person maintaining the action shall be awarded costs and  
26 reasonable attorneys' fees. If in an action for damages the court finds that the person  
27 maintaining the action was injured by a willful violation of subsection (b) of this section, the  
28 court shall award as damages three times the amount of actual damages plus costs and  
29 reasonable attorneys' fees against the individual or individuals found to be in violation of  
30 subsection (b) of this section.

31 (e) Unrelated Unfavorable Action. – It shall not be a violation of this Article for a  
32 person to discharge or take any other unfavorable action with respect to an employee who has  
33 engaged in protected activity as set forth under this Article if the person proves by the greater  
34 weight of the evidence that it would have taken the same unfavorable action in the absence of  
35 the protected activity of the employee."

36 **SECTION 4.** Sections 2 and 3 of this act become effective October 1, 2012, and  
37 apply to causes of action arising on or after that date. The remainder of this act is effective  
38 when it becomes law.