



SENATE BILL 138: Accountability for Taxpayer Investment Board.

2017-2018 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 25, 2017
Introduced by:	Sen. Hise	Prepared by:	Cindy Avrette Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: *Senate Bill 138 would require State agencies and certain non-State entities to establish, implement, and maintain an information system on its Web site that provides uniform, program-level accountability information as a condition of receiving State funds, effective July 1, 2019. The bill would create a Taxpayer Investment Accountability Board to oversee this process, effective July 1, 2017.*

CURRENT LAW: In 2016, the General Assembly enacted The North Carolina Measurability Assessment Act of 2016. Under that Act, the General Assembly may require a measurability assessment of any proposed or existing State program administered by a State agency or a non-State entity that receives State funds. A measurability assessment is an independent evaluation to determine whether a program is or will be capable of reporting performance based on 14 indicators: program uniqueness; problem addressed; logic model; evidence of results that are attributable to the program; capacity to expand; strategic planning; performance measures; continuous improvement; financial and legal risk assessment; five-year forecasting of annual recurring costs and sources of funding; program beneficiary cost sharing and means testing; staffing requirements; financial accounting capacity; and post auditing. The Performance Evaluation Division (PED) of the NC General Assembly is in the process of developing the measurability standards.

BILL ANALYSIS: Senate Bill 138 would enact the *Accountability for Taxpayer Investment Act*. The act would build upon the accountability measures enacted by the General Assembly last session. The purpose of the act is to require heads of State agencies and certain other State-funded or dependent entities to maintain uniform web-accessible information such as organization charts, financial statements, measurable performance indicators, and contact information for all programs so that an average citizen can easily attain it and have assurance that comparisons can be made between programs and across State government on spending and return on investment.

The requirements of the Act would apply to agencies of the State, including the University of North Carolina, the UNC Health Care System, the Area Health Educations Centers Program, and community colleges. It would also apply to non-State entities that must be discretely presented as a component unit in the State Comprehensive Annual Financial Report by the Governmental Accounting Standards Board. Examples of those entities include Golden LEAF, Inc., the NC Housing Finance Agency, Centennial Authority, and Economic Development Partnership of North Carolina.

The bill creates the Taxpayer Investment Accountability Board. The Board is comprised of 4 members: the State Controller, the Director of the Office of State Budget and Management, the State Auditor, and the State Chief Information Officer. The State Controller chairs the Board. The Board must establish a statewide accountability framework by setting the standards and formats by which agencies and non-State entities subject to the act must present information. The Board must meet at least twice a year to

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establish uniform standards and to oversee and report on how well State government is complying with the Act. The Board would publish its first annual report by March 1, 2018. Section 2 of the bill exempts the Board from the rule-making procedures in Chapter 150B.

State agencies and non-State entities subject to the Act would have until July 1, 2019, to bring their information systems into compliance with the Act under the Board's general oversight. The agency or entity must use its existing resources to bring its information system into compliance. On or before July 1, 2018, and biennially thereafter, the Board must survey each agency and entity to determine the extent to which each program comports to the requirements of the Act. The survey must include for each program the nonrecurring implementation costs and the recurring maintenance costs incurred or anticipated to meet the information requirements of this Act. Agencies and entities must respond to the survey by October 1.

The Act lists seven requirements that the information systems would have to contain, and the Board could establish additional requirements. The seven statutory requirements are:

- Organizational charts
- Financial statements
- Directory of contact information for each program
- A problem statement for each program
- A logic model for each program
- A Measurability Capability Form for each program.
- A uniform Web dashboard that uses color graphics comparing actual program performance to standards using the measurability indicators under the Measurability Assessment Act of 2016.

Effective July 1, 2019, the establishment of this information system would be a prerequisite to a State agency or non-State entity subject to the Act receiving State funds. State agencies that are required by law to have internal auditors must have those auditors conduct an annual audit of compliance with this Act and publish the audit report on the agency's Web site. For other State agencies, the State Auditor may verify the agency's compliance with the Act. Noncompliance must be reported to the Board, the Governor, and the following legislative entities: the Joint Legislative Commission on Governmental Operations, PED, and Fiscal Research Division.

The Act would allow a taxpayer to institute a suit in superior court requesting entry of a judgment that an agency has failed to comply with the provisions of the Act. The remedy for noncompliance is compliance. Attorney's fees may be awarded to the party who successfully compels compliance; any fees assessed against an agency or entity shall be charged against the operating expenses of the agency or entity. However, an agency may not be found in noncompliance if the agency establishes that it made a good faith effort to comply. If the court finds that an action brought under the act was filed in bad faith or was frivolous, the court shall assess attorney's fees against the person instituting the action.

Effective January 1, 2021, PED must compile an inventory of State and non-State entity programs and assign accountability ratings based upon analysis of the annual reports prepared by the Taxpayer Investment Accountability Board, agency internal audit reports, PED reports, State Auditor reports, and information submitted by programs requesting PED to revise a rating.

EFFECTIVE DATE: The bill becomes effective July 1, 2017.