



# HOUSE BILL 176: Enhance SHP Debt Collection Abilities.

2021-2022 General Assembly

<b>Committee:</b>	House State Personnel. If favorable, re-refer to Pensions and Retirement. If favorable, re-refer to Finance. If favorable, re-refer to Rules, Calendar, and Operations of the House	<b>Date:</b>	April 13, 2021
<b>Introduced by:</b>	Reps. Lambeth, McNeill, Hurley	<b>Prepared by:</b>	Theresa Matula Committee Staff
<b>Analysis of:</b>	First Edition		

**OVERVIEW:** *House Bill 176 authorizes the State Health Plan for Teachers' and State Employees' (Plan) to recover overpayments, erroneous payments, and unpaid premiums from individuals no longer employed by employing units by garnishment or attachment of intangible personal property; and authorizes the recovery of an overpayment of a claim, an erroneous claim payment, or an amount a health care provider was ineligible to receive.*

*[As introduced, this bill was identical to S160, as introduced by Sens. Krawiec, Burgin, Perry, which is currently in Senate Pensions and Retirement and Aging.]*

### CURRENT LAW:

**Employing Unit (G.S. 135-48.1(11))** – A North Carolina School System; Community College; State Department, Agency, or Institution; Administrative Office of the Courts; or Association or Examining Board whose employees are eligible for membership in a State Supported Retirement System; a charter school that is a participating employer; a local government unit that participates in the Plan; and bona fide fire departments, rescue or emergency medical service squads, and National Guard units are deemed to be employing units for the purpose of providing benefits under this Article.

**G.S. 135-48.37A Employing unit cooperation in collection of amounts owed to the plan** – establishes the process that allows an employing unit to offset amount owed to the Plan when the Plan member is employed by an employing unit and owes funds to the Plan due to overpayments, erroneous payments, and premiums paid on behalf of a Plan member. The statute allows the Plan and the employing unit to pursue repayment by all lawful means including the filing of a civil action in the General Court of Justice.

### BILL ANALYSIS:

**Section 1** of House Bill 176 gives the State Health Plan for Teachers' and State Employees' (Plan) the authority to recover funds owed to the Plan through attachment or garnishment of intangible personal property. Components are as follows:

- The bill applies to an individual who is no longer employed by an employing unit and owes money for the following reasons:
  - An overpayment or erroneous payment of benefits, claims, or other amounts paid on their behalf, or the behalf of their dependents, by the State Health Plan and has not been repaid.
  - Unpaid premiums owed by the individual for coverage provided.
- The Plan must provide notice to the individual and allow 30 days to repay in full or to enter a payment plan.

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- *Amount unpaid after 30 days* - If any amount remains unpaid after 30 days, the Plan may submit to a financial institution information identifying an individual with an overpayment, erroneous payment, or unpaid premium and the amount due.
- *Determination of intangible property held by a financial institution* - A financial institution must determine the amount of intangible property it holds that belongs to the individual and inform the Plan. Under G.S. 53B-2 a financial institution is defined as a banking corporation, trust company, savings and loan association, credit union, or other entity principally engaged in the business of lending money or receiving or soliciting money on deposit.
- *Intangible personal property* is defined to include bank deposits, rent, salaries, wages, property held in the Escheat Fund, and other property incapable of manual levy or delivery.
- *Notice* - Before the Plan attaches or garnishes intangible property in payment of an amount owed to the Plan, the Plan must send the garnishee a notice of garnishment. The garnishee is defined as a person who is in possession of intangible property that is subject to attachment and garnishment. The method of sending the notice and the information that must be contained in the notice are specified.
- *Response to Notice* - The garnishee must comply with a notice of garnishment or file a written response to the notice. A garnishee that is a financial institution is required to comply or file a response within 20 days after receiving a notice of garnishment, all other garnishees must comply or file a response within 30 days after receiving a notice of garnishment. The written response must explain why the garnishee is not subject to garnishment and attachment. Upon receiving the written response, the Plan must contact the garnishee and schedule a conference. If the Plan does not agree with the garnishee on the liability, the Plan may proceed to enforce the garnishee's liability by civil action.
- *Further Action* - The Plan's ability to pursue alternative judicial remedies against an individual, including a judgment and lien against real property, is not limited.

Section 1 would become effective October 1, 2021, and apply to notices of amounts due that are sent by the Plan on or after that date.

**Section 2** requires a health care provider to repay an overpayment of a claim, an erroneous claim payment, or an amount the provider was ineligible to receive. The requirement to repay is not limited by, or subject to, any agreement between a Claims Processor and the provider. A Claims Processor who pays an amount in error is responsible for recovering the amount. Any amounts that cannot be recovered by the Claims Processor within one year from the date the claim was paid must be repaid to the Plan by the Claims Processor. No amount due may be forgiven by a Claims Processor. This section is effective when it becomes law and applies to claims paid on or after that date.

**EFFECTIVE DATE:** Except as otherwise provided, the bill would become effective when it becomes law.