



# HOUSE BILL 549: Clarify Powers of State Auditor.

2025-2026 General Assembly

<b>Committee:</b>	Senate Rules and Operations of the Senate	<b>Date:</b>	June 18, 2025
<b>Introduced by:</b>	Reps. B. Jones, Setzer, Torbett, Kidwell	<b>Prepared by:</b>	Amy Darden
<b>Analysis of:</b>	Fifth Edition		Staff Attorney

**OVERVIEW:** *House Bill 549 would (i) exempt the Office of State Auditor from certain statutes, (ii) amend powers of the State Auditor, (iii) delete requirements that the State Auditor perform certain audits and certifications, and (iv) allow the Department of Revenue to force collect debts owed to State agencies through levy and sale and attachment and garnishment.*

## CURRENT LAW AND BILL ANALYSIS:

### Section 1

Under current law, subject to some exceptions, no State agency may contract to obtain services of a consultant or advisory nature unless the proposed contract has been justified to and approved in writing by the Governor. All written approvals must be maintained on file as part of the agency's records for not less than five years. The term "agency" shall mean every State agency, institution, board, commission, bureau, department, division, council, member of the Council of State, or officer of the State government.

**Section 1** would exempt the Office of the State Auditor from getting written approval from the Governor before contracting to obtain the services of a consultant.

### Section 2

Article 15 of Chapter 143B of the General Statutes addresses the Department of Information Technology. The Department has the power to provide technology support and services to State agencies. Under current law, unless otherwise provided by law, this does not apply to the General Assembly, the Judicial Department, and the University of North Carolina and its constituent institutions. These entities may elect to participate in the information technology programs, services, or contracts offered by the Department, including information technology procurement, in accordance with statutes and rules of the Department. The election must be made in writing.

**Section 2** would generally exempt the Office of the State Auditor from the statutes governing information technology. The Auditor's Office could elect to participate in the information technology programs, services, and contracts offered by the Department of Information Technology, including procurement. The Office of State Auditor would have to make this election in writing.

### Section 3

G.S. 143B-1350 provides that the State CIO is responsible for establishing policies and procedures for information technology procurement for State agencies. Notwithstanding any other provision of law, the Department must procure all information technology goods and services for participating agencies and must approve information technology procurements for separate agencies. The State CIO may cancel or suspend any agency information technology procurement that occurs without State CIO approval.

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# House Bill 549

Page 2

**Section 3** would exempt the Office of the State Auditor from statutes requiring the Department of Information Technology to approve information technology procurement. The Auditor would be permitted to procure information technology services under the Auditor's authority to contract with professional persons and experts.

## Section 4

G.S. 147-64.4 includes definitions for the statutes addressing the State Auditor. Currently, there is no definition for "publicly-funded entity."

**Section 4** would define a "publicly-funded entity" as " [a]ny individual, private corporation, institution, association, board, or other organization that receives, disburses, or otherwise handles State or federal funds."

## Section 5

Under G.S. 147-64.6B, the Auditor must investigate reports of allegations of improper governmental activities of State agencies and State employees within his or her authority including misappropriation, mismanagement, or waste of State resources, fraud, violations of State or federal law, rule or regulation by State agencies or State employees administering State or federal programs, and substantial and specific danger to the public health and safety. When the allegation involves issues of substantial and specific danger to the public health and safety, the Auditor shall notify the appropriate State agency immediately. When the Auditor believes that an allegation of improper governmental activity is outside the Auditor's authority, the Auditor must refer the allegation to the appropriate State agency responsible for the enforcement or administration of the matter for investigation.

**Section 5** would provide that the State Auditor is required to investigate reports of improper governmental activities of publicly-funded entities in addition to State agencies and employees of those agencies.

## Section 6

G.S. 147-64.7 addresses the Auditor's access to persons and records. Subdivision (1) provides that the Auditor and the Auditor's authorized representatives must have access to persons and may examine and copy all books, records, reports, vouchers, correspondence, files, personnel files, investments, and any other documentation of any State agency. The review of State tax returns is limited to matters of official business and the Auditor's report must not violate the confidentiality provisions of tax laws. Notwithstanding confidentiality provisions of tax laws, the Auditor may use and disclose information related to overdue tax debts.

**Section 6** would provide that upon demand of the Auditor, access to persons and records of a State agency would include continuous and unrestricted view of databases, datasets, and digital records necessary for any purpose within the authority of the Auditor.

It also would permit the Auditor to have access to databases, datasets, digital records, and other documentation of publicly-funded entities which pertain to either: (i) amounts received from a grant or contract from the federal government, the State, or its political subdivisions or (ii) amounts received, disbursed, or otherwise handled for the federal government, the State, or its political subdivisions.

It would allow the Auditor to commence an action in superior court for a show cause hearing if a person failed to provide access to persons or records. The person would have to show cause as to why he or she did not comply with the statute, and the court would be allowed to issue an injunction to require compliance.

## Section 7

# House Bill 549

Page 3

Under G.S. 143B-168.12(b), the North Carolina Partnership For Children is subject to audit and review by the State Auditor, including a requirement that the Auditor conduct annual financial compliance audits of the North Carolina Partnership.

**Section 7** would delete the statute making the North Carolina Partnership For Children subject to audit and review by the State Auditor.

## Section 8

Under current law, the State Auditor must verify and certify the following each year: (i) the total membership count and the State, political subdivision of the State, or public school employee membership count of a domiciled employees' association that has at least 2,000 members, 500 of whom are employees of the State, a political subdivision of the State, or public school employees and (ii) the total membership count and the public school teacher membership count of a domiciled employees' association that has at least 40,000 members, the majority of whom are public school teachers.

**Section 8** would delete language requiring the State Auditor to verify and certify these membership counts each year.

## Section 9

Under current law, the State Auditor is authorized to perform audits of the 911 Board. The Auditor must perform an audit of the 911 Board at least every two years.

**Section 9** would delete the statute requiring an audit of the 911 Board at least every two years.

## Section 10

G.S. 147-64.6(c) sets out the responsibilities of the State Auditor.

**Section 10** would provide that if an audit or investigation revealed that a person or entity received public funds as a result of fraud, misrepresentation, or other deceptive acts or practices while doing business with a State agency, then the Auditor must notify the Department of Revenue so the money could be collected. It also would permit the State Auditor to audit or investigate any publicly funded entity. This audit or investigation would be limited to the State or federal funds received, disbursed, or otherwise handled by the publicly-funded entity.

## Section 11

Chapter 105A of the General Statutes (the "Setoff Debt Collection Act") authorizes the State, through the Department of Revenue (Department), to offset against debtors' tax refunds certain debts owed to State and local agencies. To qualify for offset under the act, the debt amount and the corresponding debtor's tax refund amount must each be \$50 or more. State agencies are required, and local agencies are permitted, to submit debts owed to them to the Department for offset.

The act allows debtors to contest a potential offset by filing a request for hearing with the agency to which the debt is owed. A decision made after a contested hearing must determine whether a debt is owed to the agency and the amount of the debt. If the Department offsets a debt, the Department is required to transmit the "net proceeds" collected (gross proceeds collected minus allowable collection assistance fees) back to the agency to which the debt was owed and that agency is required to credit the net proceeds against the debtor's debt obligation.

**Section 11** expands the debt-collecting power of the State by modifying Chapter 105A to authorize the Department to "force collect" certain debts owed to State agencies that are uncovered through an audit by the Office of the State Auditor and are the result of fraud, misrepresentation, or other deceptive acts or practices by a private person or entity while doing business with a State agency. The force collection

# House Bill 549

Page 4

remedies authorized by this section are in addition to the debt setoff remedy currently authorized under Chapter 105A, and other remedies available by law, and would allow the Department to collect debts through levy and sale or attachment and garnishment in the same manner prescribed by G.S. 105-242 (authorizing the Department to implement forced collection remedies for nonpayment of taxes).

A levy and sale would allow the Department to issue a warrant directing:

- (i) the sheriff of any county to levy upon and sell the debtor's real and personal property found within the county for the payment of the debt and the cost of executing the warrant; and
- (ii) any revenue officer, or other employee of the Department charged with the duty to collect taxes, to levy upon and sell the debtor's personal property found within the State for the payment of the debt.

An attachment and garnishment would allow the Department to garnish up to 10% of a debtor's income to satisfy the outstanding debt.

A debtor is allowed to contest the validity of the debt by filing a notice of hearing with the Auditor. A debtor is allowed to appeal to the General Court of Justice a final decision made after an administrative hearing with the Auditor. If the Department force collects a debt, the net proceeds collected must be credited to the General Fund by the Department within 60 days of collection.

**EFFECTIVE DATE:** Sections 1, 2, and 3 would become effective July 1, 2025, and apply to contracts entered into or renewed on or after that date. G.S. 147-64.6(c)(21), as amended by Section 10 of this act, becomes effective December 1, 2025. Unless otherwise provided, the remainder of this act is effective when it becomes law.

*\*\*Brad Krehely, Legislative Analysis, and Brett Berne, Bill Drafting, substantially contributed to this summary.*