



School Technology-Fines and Forfeitures Issue Brief

Background

Article IX, Section 7 of the North Carolina Constitution requires that public schools receive “the clear proceeds of all penalties and forfeitures and of all fines collected in the several counties for any breach of the penal laws of the State.”¹ For over a decade the North Carolina School Boards Association and individual local boards of education have pursued litigation to ensure that public schools receive all monies to which they are entitled under this constitutional provision.

Litigation Timeline

1996. The North Carolina Supreme Court rules in *Craven County Board of Education v. Boyles*² that administrative (civil) fines levied by State agencies should be treated the same as criminal fines and should go to public schools per Article IX, Section 7 of the North Carolina Constitution.

1997. In response to *Boyles* the General Assembly creates the Civil Penalty and Forfeiture Fund, into which State agencies are directed to place proceeds from civil penalties and fines for subsequent distribution to school districts for technology needs. However, some State entities take the position that certain moneys, such as fees collected for overdue taxes and overweight trucks, are not actually civil fines within the meaning of the law. Based upon this interpretation, several types of civil fines are collected but **not** deposited into the fund.

1998. NCSBA and several individual school boards file suit against the State to recover the withheld moneys.

2005. In *North Carolina School Boards Association v. Moore*³ the N.C. Supreme Court unanimously upholds lower court rulings in favor of NCSBA and the school boards that most of the withheld moneys are civil fines and must therefore be distributed to school districts per *Craven County*. The only contested fines not awarded are library fees. The case is remanded to Superior Court for a determination of how much the State entities owe in withheld civil fines collected since 1998.

2005-2008. In response to *Moore*, legislators direct that future proceeds from the disputed fines be remitted to the civil penalty fund. But legislators also require that the majority of these funds be transferred to the State Public School Fund, supplanting existing appropriations. The *Moore* parties and Superior Court Judge Howard Manning repeatedly meet to determine how much school districts are owed in improperly withheld moneys.

2008. Judge Manning enters an order that the civil fines improperly withheld by State entities and owed to public schools amounts to over \$747 million.^{4 5} He also orders that this money be designated for school

¹ N.C. Const. art IX, § 7(a).

² *Craven County Board of Education v. Boyles*, 343 N.C. 87, 468 S.E.2d 50 (1996).

³ *North Carolina School Boards Association v. Moore*, 359 N.C. 474, 614 S.E.2d 504 (2005).

⁴ *N.C. Sch. Bds. Ass'n. v. Moore*, No. 98-CVS-14158 (N.C. Super. Ct.) (“Memorandum of Decision and Judgment,” Aug. 8, 2008).

technology. No time limit is set for payment, but Judge Manning expressly acknowledges that school boards “have been exceptionally patient in pressing their claim for relief for moneys that clearly were owed them over a long period of time.”

Legislative Responses

The first action to comply with Judge Manning’s order was taken in 2009, when lawmakers directed that \$18.1 million in parking fines held in escrow by the UNC system be remitted to the civil penalty fund.⁶ The following year, NCSBA crafted a legislative proposal to satisfy the judgment in a way that would simultaneously minimize budgetary impacts and improve public safety. This legislation proposed a pilot program at 15 highway work zone and school zone sites to enforce motor vehicle speed limits by using photographic equipment; 75% of resulting proceeds would be dedicated to satisfying the judgment.⁷ Though it was approved by one committee, the bill did not pass the General Assembly due to time constraints. In each of the past two legislative sessions, NCSBA has introduced the speed camera enforcement pilot legislation- named “Phoebe’s Law,” after a young girl struck by a car speeding through a school zone in 2010- but the bill has failed to move.⁸

NCSBA Position

Constitutional Obligation. There is little disputing that moneys have been wrongly withheld from classrooms and public school students over the past decade. It is long past time for the State to fulfill its constitutional responsibility and obligation to North Carolina’s students.

Payment Options. NCSBA is committed to working with the General Assembly to find a repayment plan that would allow the State to fulfill its obligations in an incremental, fiscally responsible manner. NCSBA believes a speed camera enforcement pilot program along the lines of the one proposed by Phoebe’s Law would be a good solution but is also willing to consider other ideas. Whatever repayment plan is devised, it needs to be fair, reasonable, and should supplement, not supplant, existing K-12 funding streams; reducing appropriations from other accounts in the K-12 budget to match the amount owed will not satisfy the State’s obligation.

School Technology. Digital learning and school technology are growing priorities of elected officials and public education leaders in North Carolina. Lawmakers have declared their intent to move to digital textbooks and instructional materials by 2017.⁹ The State Board of Education is working with outside experts to develop a comprehensive plan to establish a robust digital learning infrastructure for public schools. It is estimated that the transition will cost in the tens of millions of dollars yet there is no dedicated State revenue stream for school technology. A repayment program to comply with Judge Manning’s order would help build school districts’ capacity to fund school technology enhancements and transition to digital learning.

⁵ Amounts owed were delineated as follows: Revenue Dept. (\$583,340,162); Transp. Dept. (\$104,071,323); UNC system (\$42,368,982); Emp. Sec. Comm. (\$20,019,408); Health and Human Services (\$53,955); Environ. and Natural Resources Dept. (\$20,781); Commerce Dept. (\$11,560).

⁶ S.L. 2009-451, sec. 5.1(a).

⁷ SB 269, ver. 2 (2009).

⁸ HB 145, ver. 2 (2011), HB 992, ver. 1 (2013).⁹ S.L. 2013-12.

⁹ S.L. 2013-12.