

THE GENERAL STATUTES OF NORTH CAROLINA

1987 CUMULATIVE SUPPLEMENT

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Raleigh, N. C.

Annotated, under the Supervision of the Department of
Justice, by the Editorial Staff of the Publishers

Under the Direction of

A. D. KOWALSKY, S. C. WILLARD, W. L. JACKSON,
K. S. MAWYER, P. R. ROANE AND S. S. WEST

Volume 3C, Part I

Chapters 137 to 143B

Annotated through 356 S.E.2d 26. For complete scope of
annotations, see scope of volume page.

**Place Behind Supplement Tab in Binder Volume.
This Supersedes Previous Supplement, Which
May Be Retained for Reference Purposes.**

THE MICHIE COMPANY
Law Publishers
CHARLOTTESVILLE, VIRGINIA
1987

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Preface

This Cumulative Supplement to Replacement Volume 3C, Part 1 contains the general laws of a permanent nature enacted by the General Assembly through the 1987 Regular Session, which are within the scope of such volume, and brings to date the annotations included therein.

Amendments are inserted under the same section numbers appearing in the General Statutes, and new laws appear under the proper chapter headings.

Chapter analyses show all affected sections, except sections for which catchlines are carried for the purpose of notes only. An index to all statutes codified herein will appear in Replacement Index Volumes.

A majority of the Session Laws are made effective upon ratification, but a few provide for stated effective dates. If the Session Law makes no provision for an effective date, the law becomes effective under G.S. 120-20 "from and after 30 days after the adjournment of the session" in which passed.

Beginning with the opinions issued by the North Carolina Attorney General on July 1, 1969, any opinion which construes a specific statute is cited as an annotation to that statute. For a copy of an opinion or of its headnotes write the Attorney General, P.O. Box 629, Raleigh, N.C. 27602.

The members of the North Carolina Bar are requested to communicate any defects they may find in the General Statutes or in this Cumulative Supplement and any suggestions they may have for improving the General Statutes, to the Department of Justice of the State of North Carolina, or to The Michie Company, Law Publishers, Charlottesville, Virginia.

Scope of Volume

Statutes:

Permanent portions of the General Laws enacted by the General Assembly through the 1987 Regular Session affecting Chapters 137 through 143B of the General Statutes.

Annotations:

Sources of the annotations to the General Statutes appearing in this volume are:

- North Carolina Reports through Volume 319, p. 464.
- North Carolina Court of Appeals Reports through Volume 85, p. 173.
- South Eastern Reporter 2nd Series through Volume 356, p. 26.
- Federal Reporter 2nd Series through Volume 817, p. 761.
- Federal Supplement through Volume 658, p. 304.
- Federal Rules Decisions through Volume 115, p. 78.
- Bankruptcy Reports through Volume 72, p. 618.
- Supreme Court Reporter through Volume 107, p. 2210.
- North Carolina Law Review through Volume 65, p. 847.
- Wake Forest Law Review through Volume 22, p. 424.
- Campbell Law Review through Volume 9, p. 206.
- Duke Law Journal through 1987, p. 190.
- North Carolina Central Law Journal through Volume 16, p. 222.
- Opinions of the Attorney General.

George W. Johnson

1870

Received of the Treasurer of the United States for the sum of \$100.00 the interest on the loan of \$1000.00 for the year 1870.

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The General Statutes of North Carolina 1987 Cumulative Supplement

User's Guide

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the North Carolina General Statutes, a User's Guide has been included herein. This guide contains comments and information on the many features found within the General Statutes intended to increase the usefulness of this set of laws to the user. See Volume 1A, Part I for the complete User's Guide.

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**The General Statutes of North Carolina
1987 Cumulative Supplement**

VOLUME 3C, PART I

Chapter 137.

Rural Rehabilitation.

Article 2.

North Carolina Rural Rehabilitation Corporation.

Sec.
137-31.5. Audit.

ARTICLE 2.

North Carolina Rural Rehabilitation Corporation.

§ 137-31.5. Audit.

The operations of the Corporation shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1953, c. 724, s. 5; 1983, c. 913, s. 26.)

Effect of Amendments. — The 1983 amendment, effective July 22, 1983, rewrote this section, which formerly provided for a periodic audit by the State

Auditor, a statement of the financial condition of the Corporation, and the furnishing of copies of such audit and statement.

Chapter 138.

Editor's Note. — The legislation and annotations affecting Chapter 138 have been included in a recently published replacement chapter.

Chapter 139.
Soil and Water Conservation Districts.

ARTICLE 1.

General Provisions.

§ 139-2. Legislative determinations, and declaration of policy.

CASE NOTES

Applied in *Baucom's Nursery Co. v. Mecklenburg County*, 62 N.C. App. 396, 303 S.E.2d 236 (1983).

ARTICLE 4.

Grants for Small Watershed Projects.

§ 139-54. Purposes for which grants may be requested.

Editor's Note. — Session Laws 1983, c. 757, s. 14, provides: "Of the one million one hundred thousand dollars (\$1,100,000) appropriated for fiscal year 1983-84 in Section 3.1 of this act for a reserve for Water Resources Projects, up to one-third may be used for small wa-

tershed projects. Notwithstanding the provisions of G.S. 139-54, no funds appropriated herein shall be used for State participation in the costs of land rights acquisition for small watershed projects."

Chapter 140.

State Art Museum; Symphony and Art Societies.

Article 1A.

Art Museum Building Commission.

Sec.

140-5.17. State Art Museum Building Commission.

Sec.

140-5.3 to 140-5.6. [Repealed.]

Article 2.

North Carolina Symphony Society.

North Carolina Museum of Art.

140-8. Audit.

140-5.13. Board of Trustees — establishment; members; selections; quorum; compensation; officers; meetings.

Article 3.

North Carolina Art Society.

140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.

140-12. Department of Administration authorized to provide space for Art Society.

140-13. Audit.

ARTICLE 1A.

Art Museum Building Commission.

§§ 140-5.3 to 140-5.6: Repealed by Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 16.

Editor's Note. — Section 41 of Session Laws 1985 (Reg. Sess., 1986) provided that the repeal of these sections became effective 30 days after ratification. The act was ratified on July 16, 1986.

Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 39 provides that §§ 1 through 31 of the act shall not affect pending litigation.

Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 38 is a severability clause.

ARTICLE 1B.

North Carolina Museum of Art.

§ 140-5.13. Board of Trustees — establishment; members; selection; quorum; compensation; officers; meetings.

(b) The Board of Trustees of the North Carolina Museum of Art shall consist of 25 members, chosen as follows:

- (1) The Governor shall appoint eleven members, one from each congressional district in the State in accordance with G.S. 147-12(3)b;
- (2) The North Carolina Art Society, Incorporated, shall elect four members;
- (3) The North Carolina Museum of Art Foundation, Incorporated, shall elect four members;
- (4) The Board of Trustees of the North Carolina Museum of Art shall elect four members;
- (5) The General Assembly shall appoint two members, one upon the recommendation of the Speaker of the House of

- Representatives, and one upon the recommendation of the President of the Senate in accordance with G.S. 120-121; (6) Repealed by Session Laws 1981 (Regular Session, 1982), c. 1191, s. 49.

All regular appointments or elections except those by the General Assembly shall be for terms of six years, except that each member shall serve until his successor is chosen and qualifies. No person may be appointed or elected to more than two consecutive terms of six years. All regular appointments by the General Assembly shall be for the then current legislative term, and no appointee of the General Assembly may be appointed to more than two consecutive terms of two years.

(1979, 2nd Sess., c. 1306, s. 1; 1981 (Reg. Sess., 1982), c. 1191, ss. 49-52; 1987, c. 842, ss. 1, 2.)

Only Part of Section Set Out. — As the rest of the section was not affected by the amendment, it is not set out.

Editor's Note. — Session Laws 1987, c. 842, s. 3 provides: "Notwithstanding G.S. 140-5.13(d), the three new members shall be elected to the Board of Trustees by October 1, 1987, and the initial terms of each shall be as follows:

"(1) The member elected by the North Carolina Art Society, Incorporated, shall serve an initial term expiring June 30, 1989.

"(2) The member elected by the North Carolina Museum of Art Foundation, Incorporated, shall serve an initial term expiring June 30, 1991.

"(3) The member elected by the Board of Trustees of the North Carolina Mu-

seum of Art shall serve an initial term expiring June 30, 1993.

"Any vacancy occurring in the initial membership of the three members added by this act to the Board of Trustees prior to the expiration of a term of office shall be filled by the same authority and in the same manner as the vacating member was chosen and the successor member shall serve for the remainder of the unexpired term of the vacating member."

Effect of Amendments. —

The 1987 amendment, effective August 14, 1987, substituted "25 members" for "22 members" in the first sentence of subsection (b) and substituted "four members" for "three members" in subdivisions (b)(2), (b)(3) and (b)(4).

§ 140-5.15. Director of Museum of Art; appointment; dismissal; powers and duties; staff.

(b) The Secretary of Cultural Resources may dismiss the Director unless two thirds of the authorized membership of the Board of Trustees shall vote to reverse that action in accordance with the following procedure: Upon dismissal of the Director, the Secretary shall give to the chairman of the Board of Trustees written notice of that action. This notice shall be sent to the chairman of the Board within 10 days after the Secretary makes a final decision on dismissal. The chairman shall promptly communicate the notice of dismissal to all other Board members. Board action to consider reversal of the Secretary's decision shall be taken at a regular or special meeting called pursuant to G.S. 140-5.13(h). Reversal of the Secretary's order of dismissal may be effected only by resolution adopted by an affirmative vote of two thirds of the authorized membership of the Board of Trustees at a meeting held within 30 days after the chairman of the Board receives from the Secretary written notice of dismissal of the Director. All ex officio members of the Board shall be entitled to vote on this question. The failure of two thirds of the

authorized membership of the Board of Trustees to vote to reverse the Secretary's order of dismissal within 30 days after the chairman of the Board receives from the Secretary written notice of dismissal of the Director shall be deemed an affirmance of that order by the Board.

(c) The salary of the Director shall be fixed by the General Assembly in the Current Operations Appropriations Act.

(1961, c. 731; 1973, c. 476, s. 38; 1979, 2nd Sess., c. 1306, s. 1; 1985, c. 122, s. 6; c. 479, s. 218; 1987, c. 827, s. 81.)

Only Part of Section Set Out. — As the rest of the section was not affected by the amendments, it is not set out.

Editor's Note. — Session Laws 1985, c. 122, s. 1, provides: "This act may be cited as the Separation of Powers Act of 1985."

Session Laws 1985, c. 479, s. 1.1 provides that the act shall be known as "The Current Operations Appropriations Act of 1985."

Session Laws 1985, c. 479, s. 230 is a severability clause.

Effect of Amendments. — The 1985 amendment by c. 122, s. 6, effective April 25, 1985, substituted "after consultation with the Advisory Budget Commission" for "with the approval of the Advisory Budget Commission" in subsection (c).

The 1985 amendment by c. 479, s. 218, effective July 1, 1985, rewrote subsection (c), which formerly read "The salary of the director shall be fixed by the Governor with the approval of the Advisory Budget Commission after receiving the recommendation of the Board of Trustees."

Subsection (c) is set out above as rewritten by c. 479, s. 218.

The 1987 amendment, effective August 13, 1987, deleted the last two sentences of subsection (b), which read "A decision by the Board of Trustees to affirm or reverse the Secretary's order of dismissal shall be deemed a final decision of the Department of Cultural Resources. An appeal from the final agency decision shall be taken pursuant to Chapter 150A of the General Statutes."

§ 140-5.17. State Art Museum Building Commission.

No provision of this Article shall to any extent abrogate or diminish the powers and duties of the State Art Museum Building Commission, provided for in Part 3, Article 2, of Chapter 143B of the General Statutes. (1979, 2nd Sess., c. 1306, s. 1; 1985 (Reg. Sess., 1986), c. 1028, s. 17.)

Editor's Note. — Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 39 provides that §§ 1 through 31 of the act shall not affect pending litigation.

Session Laws 1985 (Reg. Sess., 1986), c. 1028, s. 38 is a severability clause.

Effect of Amendments. — The 1985 (Reg. Sess., 1986) amendment, effective thirty days after ratification, deleted "Article 1A of Chapter 140 and in" preceding "Part 3, Article 2". The act was ratified July 16, 1986.

ARTICLE 2.

*North Carolina Symphony Society.***§ 140-8. Audit.**

The operations of the North Carolina Symphony Society, Inc., shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1943, c. 755, s. 4; 1983, c. 913, s. 28.)

Effect of Amendments. — The 1983 amendment, effective July 22, 1983, rewrote this section.

ARTICLE 3.

*North Carolina Art Society.***§ 140-12. Department of Administration authorized to provide space for Art Society.**

Subject to the approval of the Governor, the Department of Administration is authorized and empowered to set apart, for the administration of the affairs of the State Art Society, Incorporated, space in any of the public buildings in Wake County which may be so used without interference with the conduct of the business of the State. Prior to taking any action under this section, the Governor may consult with the Advisory Budget Commission. (1961, c. 1152; 1983, c. 717, ss. 52, 53; 1985 (Reg. Sess., 1986), c. 955, ss. 54, 55.)

Editor's Note. — Session Laws 1983, c. 717, s. 1, provides: "This act may be cited as the Separation of Powers Act of 1983."

Section 1 of Session Laws 1985 (Reg. Sess., 1986), c. 955 provides: "This act may be cited as the Separation of Powers Act of 1986."

Section 127 of c. 955 provides: "If any part of this act shall be declared invalid by any court, this shall not affect any other part of this act."

Effect of Amendments. — The 1983

amendment, effective July 11, 1983, substituted "after consultation with the Advisory Budget Commission" for "and the Advisory Budget Commission" and substituted "Wake County" for "the City of Raleigh."

The 1985 (Reg. Sess., 1986) amendment, effective July 1, 1986, deleted "after consultation with the Advisory Budget Commission" following "Governor" in the first sentence and added the second sentence.

§ 140-13. Audit.

The operations of the North Carolina Art Society, Inc., shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes. (1961, c. 1152; 1977, c. 702, s. 1; 1983, c. 913, s. 29.)

Effect of Amendments. — The 1983 amendment, effective July 22, 1983, rewrote this section.

Chapters 142 and 143.

Editor's Note. — The legislation and annotations affecting Chapters 142 and 143 have been included in recently published replacement chapters.

Chapter 143A. State Government Reorganization.

Article 1.

General Provisions.

Sec.

- 143A-9. Appointment of officers and employees; salaries of department heads.
143A-17. Plans and reports.

Article 5.

Department of Public Education.

- 143A-42. Superintendent of Public Instruction; transfer of office and Department of Public Instruction; powers and duties.
143A-43. [Repealed.]
143A-44. North Carolina Vocational Textile School; transfer.
143A-45. Interstate Compact for Education; rights, duties and privileges.
143A-46. [Repealed.]
143A-47. Interstate Agreement on Qualifications of Educa-

Sec.

- tional Personnel; rights, duties and privileges.
143A-48. Textbook Commission; transfer.

Article 6.

Department of Justice.

- 143A-55.2. North Carolina Sheriffs' Education and Training Standards Commission; transfer.
143A-55.3 to 143A-55.7. [Not effectuated.]

Article 9.

Department of Insurance.

- 143A-76, 143A-77. [Repealed.]
143A-79.1. Public Officers and Employees Liability Insurance Commission; transfer.
143A-79.2. State Fire Commission; transfer.

ARTICLE 1.

General Provisions.

§ 143A-1. Short title.

CASE NOTES

Stated in *Tice v. Department of Transp.*, 67 N.C. App. 48, 312 S.E.2d 241 (1984).

§ 143A-6. Types of Transfers.

CASE NOTES

Applied in *Stanley v. Retirement & Health Benefits Div.*, 66 N.C. App. 122, 310 S.E.2d 637 (1984).

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§ 143A-9. Appointment of officers and employees; salaries of department heads.

Any provisions of law to the contrary notwithstanding, and subject to the provisions of the Constitution of the State of North Carolina, the head of a principal department, except those departments headed by elected officials who are constitutional officers, shall be appointed by the Governor and serve at his pleasure.

The head of a principal department shall appoint the chief deputy or chief assistant and such chief deputy or chief assistant shall be subject to the State Personnel Act. Except where appointment by the Governor is prescribed by existing statute, the head of the principal department shall appoint the administrative head of each transferred agency and, subject to the provisions of the State Personnel Act, appoint all employees of each division, section or other unit under a principal department.

In establishing the position of secretary, and the supporting staff for the principal departments, the cost of such staff positions will be met insofar as possible by utilizing existing positions or funds available from vacant positions within agencies assigned to the principal departments. (1971, c. 864, s. 1; 1983, c. 717, s. 50.)

Editor's Note. —

Session Laws 1983, c. 717, s. 1, provides: "This act may be cited as the Separation of Powers Act of 1983."

Effect of Amendments. — The 1983 amendment, effective July 11, 1983, deleted the second and third sentences of the first paragraph, which read "The salary of the head of each of the principal departments, except in those depart-

ments headed by elected officials who are constitutional officers, shall be set by the Advisory Budget Commission on the recommendation of the Governor. Salaries for these positions shall be filed with the General Assembly pursuant to G.S. 143-34.3 commencing with the 1973 General Assembly."

§ 143A-17. Plans and reports.

Each principal department shall submit an annual plan of work to the Governor and the Advisory Budget Commission prior to the beginning of each fiscal year. Each department which plans to include in its budget request for the ensuing fiscal period a request for (i) the establishment of a new program regardless of the source of the supporting funds, or (ii) the State funding of a program which was previously supported from nonstate sources, shall provide in its annual plan of work measurement criteria for the determination of the success or failure of each such program requested. Each principal department shall submit an annual report covering programs and activities to the Governor and Advisory Budget Commission at the end of each fiscal year. These plans of work and annual reports shall be made available to the General Assembly. These documents will serve as the base for the development of budgets for each principal department of the State government to be submitted to the Governor, Advisory Budget Commission, and to the appropriations committees of the General Assembly for consideration and approval. The function of the Advisory Budget Commission under the preceding sentence applies only if the Director of the Budget consults with the Commission in preparation of the budget. (1971, c. 864, s. 21; 1977, 2nd Sess., c. 1219, s. 44; 1985 (Reg. Sess., 1986), c. 955, s. 96.)

Editor's Note. — Section 1 of Session Laws 1985 (Reg. Sess., 1986), c. 955 provides: "This act may be cited as the Separation of Powers Act of 1986."

Section 127 of Session Laws 1985 (Reg. Sess., 1986), c. 955 provides: "If

any part of this act shall be declared invalid by any court, this shall not affect any other part of this act."

Effect of Amendments. — The 1985 (Reg. Sess., 1986) amendment, effective July 1, 1986, added the last sentence.

ARTICLE 5.

Department of Public Education.

§ 143A-42. Superintendent of Public Instruction; transfer of office and Department of Public Instruction; powers and duties.

The office of the Superintendent of Public Instruction, as provided for by Article III, Sec. 7, of the Constitution, and the Department of Public Instruction are hereby transferred to the Department of Public Education. The Superintendent of Public Instruction shall be the secretary and chief administrative officer of the State Board of Education, and shall have such powers and duties as are conferred by the Constitution, by the State Board of Education, Chapter 115C of the General Statutes, and the laws of this State. (1971, c. 864, s. 7; 1983, c. 768, s. 13.)

Effect of Amendments. — The 1983 amendment, effective July 15, 1983, substituted "Chapter 115C" for "Chapter 115" in the second sentence.

§ 143A-43: Repealed by Session Laws 1983, c. 768, s. 14, effective July 15, 1983.

§ 143A-44. North Carolina Vocational Textile School; transfer.

The North Carolina Vocational Textile School, and board of trustees, as contained in Article 6 of Chapter 115D of the General Statutes and the laws of this State, are hereby transferred by a Type II transfer to the Department of Public Education. (1971, c. 864, s. 7; 1983, c. 768, s. 15.)

Effect of Amendments. — The 1983 amendment, effective July 15, 1983, substituted "Chapter 115D" for "Chapter 115A."

§ 143A-45. Interstate Compact for Education; rights, duties and privileges.

All of the rights, duties and privileges of this State obtained as a party to the Interstate Compact for Education as contained in Part 5 of Article 8 of Chapter 115C of the General Statutes and the laws of this State, shall be supervised and administered by the Superintendent of Public Instruction. (1971, c. 864, s. 7; 1983, c. 768, s. 16.)

Effect of Amendments. — The 1983 amendment, effective July 15, 1983, substituted "Part 5 of Article 8 of Chapter 115C" for "Article 43 of Chapter 115."

§ 143A-46: Repealed by Session Laws 1983, c. 768, s. 14, effective July 15, 1983.

§ 143A-47. **Interstate Agreement on Qualifications of Educational Personnel; rights, duties and privileges.**

All of the rights, duties and privileges of this State obtained as a party to the Interstate Agreement on Qualifications of Educational Personnel as contained in Article 24 of Chapter 115C of the General Statutes and the laws of this State shall be supervised and administered by the Superintendent of Public Instruction. (1971, c. 864, s. 7; 1983, c. 768, s. 17.)

Effect of Amendments. — The 1983 amendment, effective July 15, 1983, substituted "Article 24 of Chapter 115C" for "Article 17A of Chapter 115."

§ 143A-48. **Textbook Commission; transfer.**

Textbook Commission, as created by G.S. 115C-87 and the laws of this State, is hereby transferred by a Type I transfer to the Department of Public Education. (1971, c. 864, s. 7; 1983, c. 768, s. 18.)

Effect of Amendments. — The 1983 amendment, effective July 15, 1983, substituted "G.S. 115C-87" for "G.S. 115-206.3."

ARTICLE 6.

Department of Justice.

§ 143A-49. **Creation.**

CASE NOTES

The Governor has the duty to supervise the official conduct of all executive officers. The constitutional independence of the executive offices, and their differing functions and duties, create clear potential for conflict between their respective holders. In the event of such conflict, power in the Attorney General to resolve, without their consent, controversies involving agencies or departments under the supervision of

the Governor, could be abused by exercise in a manner effectively derogative of the Governor's constitutional duties to exercise executive power and to supervise the official conduct of all executive officers. The General Assembly, in the enactment of § 114-2(2), did not intend to create such potential. *Tice v. Department of Transp.*, 67 N.C. App. 48, 312 S.E.2d 241 (1984).

§ 143A-49.1. Attorney General; powers and duties.

Legal Periodicals. — For survey of Role for the Attorney General," see 63 1984 administrative law, "A Declining N.C.L. Rev. 1051 (1985).

§ 143A-55.2. North Carolina Sheriffs' Education and Training Standards Commission; transfer.

The North Carolina Sheriffs' Education and Training Standards Commission, as created by Chapter 17E of the General Statutes and laws of this State, is hereby transferred by a Type II transfer as defined in G.S. 143A-6(b) to the Department of Justice. (1983, c. 558, s. 4.)

Editor's Note. — Session Laws 1983, c. 558, s. 7, makes this section effective Sept. 1, 1983.

§§ 143A-55.3 to 143A-55.7: Not effectuated.

Cross References. — As to the Administrative Rules Review Commission, see now § 143B-30 et seq.

Editor's Note. — Section 18.2 of Session Laws 1985, c. 746, provided: "The President of the Senate and the Speaker of the House of Representatives shall request the Supreme Court to issue an advisory opinion on the constitutionality of Sections 5 and 6 of this act and the appointment of the chief hearing officer by the Chief Justice as provided in G.S. 7A-752 in Section 2 of this act."

Section 19 of Session Laws 1985, c. 746, provided that sections 5 and 6 of the act, which added §§ 143A-55.3 through 143A-55.7 and amended § 120-123, should become effective 30 days from the date the Supreme Court issued an advisory opinion on the constitutionality of those sections unless the opinion stated that those sections were unconstitutional, in which event those sections would not become effective.

In addition, s. 19 of Session Laws 1985, c. 746, provided that the act would expire Jan. 1, 1992, and would not be effective on or after that date.

Section 19 of Session Laws 1985, c. 746, further provided that the act would not affect contested cases commenced before Jan. 1, 1986.

By letter of October 28, 1985, addressed to the President of the Senate and the Speaker of the House, the Supreme Court declined to issue an advisory opinion as contemplated by Session Laws 1985, c. 746, on the grounds that to issue such an opinion would be to place the Court directly in the stream of the legislative process, and in view of the prerogative of the General Assembly to first address and determine the constitutionality of its own legislation. See *In re Advisory Opinion*, 314 N.C. 330, 335 S.E.2d 890 (1985).

Session Laws 1985 (Reg. Sess., 1986), c. 1022, s. 7 deleted the word "advisory" preceding "opinion" in the third sentence of Session Laws 1985, c. 746, s. 19, as referred to in the 1985 Cumulative Supplement in the notes under these sections.

At the direction of the Revisor of Statutes, §§ 143A-55.3 to 143A-55.7 are shown as not effectuated.

ARTICLE 9.

Department of Insurance.

§ **143A-76:** Repealed by Session Laws 1985, c. 666, s. 11, effective July 10, 1985.

§ **143A-77:** Repealed by Session Laws 1985, c. 666, s. 12, effective July 10, 1985.

§ **143A-79.1. Public Officers and Employees Liability Insurance Commission; transfer.**

The Public Officers and Employees Liability Insurance Commission, as contained in Part 20 of Article 9 of General Statutes Chapter 143B, is transferred by a Type II transfer to the Department of Insurance. (1985, c. 666, s. 78.)

Editor's Note. — Session Laws 1985, c. 666, s. 85 makes this section effective upon ratification. The act was ratified July 10, 1985.

Part 20 of Article 9 of Chapter 143B, referred to in this section, was recodified as §§ 58-27.20 to 58-27.26 by Session Laws 1985, c. 666, s. 79.

§ **143A-79.2. State Fire Commission; transfer.**

The State Fire Commission, described in Part 4 of Article 11 of Chapter 143B of the General Statutes, is transferred from the Department of Crime Control and Public Safety to the Department of Insurance. This transfer shall include all elements of a Type I transfer as defined in G.S. 143A-6. (1985, c. 757, s. 167(a).)

Editor's Note. — Session Laws 1985, c. 757, s. 167(k) makes this section effective upon ratification. The act was ratified July 15, 1985.

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Chapter 143B.

Editor's Note. — The legislation and annotations affecting Chapter 143B have been included in a recently published replacement chapter.

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STATE OF NORTH CAROLINA

DEPARTMENT OF JUSTICE

Raleigh, North Carolina

November 1, 1987

I, Lacy H. Thornburg, Attorney General of North Carolina, do hereby certify that the foregoing 1987 Cumulative Supplement to the General Statutes of North Carolina was prepared and published by The Michie Company under the supervision of the Department of Justice of the State of North Carolina.

LACY H. THORNBURG
Attorney General of North Carolina