

Article 11.

Enforcement of Chapter.

§ 159-181. Enforcement of Chapter.

(a) If any finance officer, governing board member, or other officer or employee of any local government or public authority (as local government and public authority are defined in G.S. 159-7(b)) shall approve any claim or bill knowing it to be fraudulent, erroneous, or otherwise invalid, or make any written statement, give any certificate, issue any report, or utter any other document required by this Chapter, knowing that any portion of it is false, or shall willfully fail or refuse to perform any duty imposed upon him by this Chapter, he is guilty of a Class 3 misdemeanor and upon conviction shall only be fined not more than one thousand dollars (\$1,000) and forfeits his office, and shall be personally liable in a civil action for all damages suffered thereby by the unit or authority or the holders of any of its obligations.

(b) If any person embezzles any funds belonging to any local government or public authority, or appropriates to his own use any personal property having a value of more than fifty dollars (\$50.00) belonging to any local government or public authority, in addition to the crimes and punishment otherwise provided by law, upon conviction he forfeits his office or position and is forever thereafter barred from holding any office or place of trust or profit under the State of North Carolina or any political subdivisions thereof until the disability is removed in the manner provided for restoration of citizenship in Chapter 13 of the General Statutes.

(c) The Local Government Commission shall have authority to impound the books and records of any unit of local government or public authority and assume full control of all its financial affairs (i) when the unit or authority defaults on any debt service payment or, in the opinion of the Commission, will default on a future debt service payment if the financial policies and practices of the unit or authority are not improved, (ii) when the unit or authority persists, after notice and warning from the Commission, in willfully or negligently failing or refusing to comply with the provisions of this Chapter, or (iii) when the General Assembly suspends the charter of a municipality. When the Commission takes action under this section, the Commission is vested with all of the powers of the governing board as to the levy of taxes, expenditure of money, adoption of budgets, and all other financial powers conferred upon the governing board by law. If the unit of local government or public authority failed to submit annual audit reports as required by G.S. 159-34(a), the Commission may waive the audit requirement in G.S. 159-34(a) for any or all of the missing reports provided that the use of all grant funds and borrowed funds is documented to the satisfaction of the grantors and lenders. If the Commission waives the annual audit requirement, the Commission shall consider making a recommendation to the General Assembly or other organizing body for the revocation of the charter or the dissolution of the unit of local government or public authority. This subsection does not apply to contractual obligations undertaken by a unit of local government in a debt instrument issued pursuant to Chapter 159G of the General Statutes unless such debt instrument is secured by a pledge of the faith and credit of the unit of local government.

(d) The Local Government Commission shall have authority to impound the books and records associated with the water and/or sewer enterprise system of any unit of local government or public authority, assume full control of all its affairs, or take any lesser actions deemed necessary by the Commission when, for three consecutive fiscal years, the audited financial statements of the unit or public authority demonstrate that the unit or public authority meets any one of the following three criteria: (i) the enterprise system experienced negative working capital; (ii) the enterprise system experienced a quick ratio of less than 1.0; or (iii) the unit or public authority experienced a net loss of revenue from operations in the enterprise system using the modified accrual budgetary basis of accounting. Before the Commission assumes full control of an enterprise system as described in this subsection, it must find that the impact of items (i)

through (iii) threatens the financial stability of the unit or public authority, and that the unit or public authority has failed to make corrective changes in its operation of the enterprise system after having received notice and warning from the Commission. The notice and warning may occur prior to the expiration of the three-year period. When the Commission takes action under this section, the Commission is vested with the powers of the governing board as the Commission shall deem necessary, which may include all powers of the governing board as to the operation of the enterprise system, including, but not limited to, setting rates, negotiating contracts, collecting payments that are due, suspending service to nonpaying customers, resolving disputes with third parties, and transferring the ownership of the enterprise system. For purposes of this subsection, the term "working capital" means current assets, such as cash, inventory, and accounts receivable, less current liabilities, determined in accordance with generally accepted accounting principles, and the phrase "quick ratio of less than 1.0" means that the ratio of liquid assets, cash and receivables, to current liabilities is less than 1.0. (1971, c. 780, s. 1; 1973, c. 494, s. 43; 1987, c. 796, s. 5; 1993, c. 539, s. 108; 1994, Ex. Sess., c. 24, s. 14(c); 2013-150, s. 1; 2021-58, s. 4(a).)