

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 163

Short Title: Treasury Administrative Changes.-AB (Public)

Sponsors: Representatives C. Smith, McNeill, Riddell, and Cleveland (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Pensions and Retirement, if favorable, Local Government, if favorable, Rules,
Calendar, and Operations of the House

March 1, 2021

A BILL TO BE ENTITLED

AN ACT MAKING CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS
RELATING TO THE STATE TREASURER'S INVESTMENT PROGRAMS, THE LOCAL
GOVERNMENT COMMISSION, AND REPORTS SUBMITTED TO THE COUNCIL OF
STATE.

The General Assembly of North Carolina enacts:

**PART I. CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS RELATING
TO THE STATE TREASURER'S INVESTMENT PROGRAMS**

SECTION 1.(a) G.S. 147-69.3 reads as rewritten:

"§ 147-69.3. Administration of State Treasurer's investment programs.

...

(i3) The Treasurer may have investments in the countries of Sudan and South Sudan only
to the extent allowed by the United States Government.

...."

SECTION 1.(b) G.S. 147-86.57 reads as rewritten:

"§ 147-86.57. Definitions.

As used in this Article:

...

(3) "Investment" means a commitment or contribution of funds or property,
whatever the source, a loan or other extension of credit, and the entry into or
renewal of a contract for goods or services. It does not include ~~beneficial
ownership through index funds, or index replication strategies, investment
vehicles such as commingled funds, limited partnerships, or derivative
instruments, or the like instruments.~~

...."

SECTION 1.(c) Article 6D of Chapter 147 of the General Statutes is repealed.

**PART II. CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS RELATING
TO THE LOCAL GOVERNMENT COMMISSION**

SECTION 2.(a) G.S. 143-128.1C reads as rewritten:

"§ 143-128.1C. Public-private partnership construction contracts.

...



1 (b) If the governmental entity determines in writing that it has a critical need for a capital
2 improvement project, the governmental entity may acquire, construct, own, lease as lessor or
3 lessee, and operate or participate in the acquisition, construction, ownership, leasing, and
4 operation of a public-private project, or of specific facilities within such a project, including the
5 making of loans and grants from funds available to the governmental entity for these purposes.
6 If the governmental entity is a public body under Article 33C of this Chapter, the determination
7 shall occur during an open meeting of that public body. The governmental entity may enter into
8 development contracts with private developers with respect to acquiring, constructing, owning,
9 leasing, or operating a project under this section. If the development contract is entered into by a
10 governmental entity that is a unit of local government as defined in G.S. 159-7, and the unit must
11 finance all or part of its portion of the cost of the project, then the amount financed by the unit is
12 subject to approval by the Local Government Commission as provided in Chapter 159 of the
13 General Statutes. Approval must be secured prior to the execution of the development contract.

14 The development contract shall specify the following:

- 15 (1) The property interest of the governmental entity and all other participants in
16 the development of the project.
- 17 (2) The responsibilities of the governmental entity and all other participants in the
18 development of the project.
- 19 (3) The responsibilities of the governmental entity and all other participants with
20 respect to financing of the project.
- 21 (4) The responsibilities to put forth a good-faith effort to comply with
22 G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business
23 entities.

24"

25 **SECTION 2.(b)** G.S. 159-28 reads as rewritten:

26 "**§ 159-28. Budgetary accounting for appropriations.**

27 ...

28 (a3) Use of Automated System for Preaudit. – An automated financial computer system
29 may be used to meet the requirements of subsection (a1) of this section if an annual certification
30 is filed with the Secretary of the Commission pursuant to subsection (a4) of this section. The
31 provisions of this subsection do not apply to transactions exempted by statute from the preaudit
32 requirement. The automated computer system must have all of the following:

- 33 (1) Embedded functionality that determines that there is an appropriation to the
34 department, function code, or project in which the transaction appropriately
35 falls.
- 36 (2) Functionality ensuring that unencumbered funds remain in the appropriation
37 to pay out any amounts that are expected to come due during the budgeted
38 period.
- 39 (3) Real-time visibility to budget compliance, alert threshold notifications, and
40 rules-based compliance measures and enforcement.

41 (a4) Annual Certification of Automated Preaudit System. – When an automated financial
42 computer system is used to meet the requirements of subsection (a1) of this section, the finance
43 officer shall certify to the Secretary of the Commission no later than 30 days after the end of the
44 unit's or public authority's fiscal year that the automated financial computer system meets all the
45 requirements of subsection (a3) of this section. The Secretary may reject or revoke the finance
46 officer's certification if the annual audit for the unit's or public authority's immediately preceding
47 fiscal year includes a finding of budgetary noncompliance or if the Secretary determines that the
48 automated financial computer system fails to meet the requirements of subsection (a3) of this
49 section.

50"

51 **SECTION 2.(c)** G.S. 159-181 reads as rewritten:

"§ 159-181. Enforcement of Chapter.

...

(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, ~~or~~ (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.~~ 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 that the local government or public authority should be abolished. This subsection ~~(e)~~ 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.

...."

PART III. CLARIFYING AND ADMINISTRATIVE CHANGES TO A LAW RELATING TO REPORTS SUBMITTED TO THE COUNCIL OF STATE**SECTION 3. G.S. 116-37 reads as rewritten:****"§ 116-37. University of North Carolina Health Care System.**

...

(i) Property. – The board of directors shall establish rules and regulations for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift, lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the ~~Governor and Council of State.~~ Governor. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes.

...."

PART IV. MISCELLANEOUS

SECTION 4. The Local Government Commission shall have the authority to impound the books and records and take any other action authorized by G.S. 159-181, as enacted

1 in Section 2(c) of this act, with respect to the Towns of Eureka and Spencer Mountain, whose
2 charters were suspended in S.L. 2019-29 and S.L. 2016-45, as amended by S.L. 2019-29,
3 respectively.
4

5 **PART V. EFFECTIVE DATE**

6 **SECTION 5.** This act is effective when it becomes law.