

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE PRINCIPAL CLERK

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HOUSE BILL DRH50008-LMxf-36C

Short Title: LGC Toolkit III.-AB

(Public)

Sponsors: Representative Miller.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT MAKING STATUTORY CHANGES AFFECTING THE OPERATIONS OF THE
3 LOCAL GOVERNMENT COMMISSION IN THE DEPARTMENT OF THE STATE
4 TREASURER.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. G.S. 153A-82 reads as rewritten:

7 "§ 153A-82. Powers and duties of manager.

8 (a) The manager is the chief administrator of county government. The manager is
9 responsible to the board of commissioners for the administration of all departments of county
10 government under the board's general control and has the following powers and duties:

11 ...

12 (9) The manager shall receive a minimum of six clock hours of education upon
13 the occurrence, or within six months of the occurrence, of any of the
14 following:

15 a. The Local Government Commission is exercising its authority under
16 Article ~~10~~11 of Chapter 159 of the General Statutes with respect to
17 the county.

18 b. The county has received a ~~unit~~-letter from the Local Government
19 Commission due to a deficiency in complying with Chapter 159 of the
20 General Statutes.

21"

22 SECTION 2. G.S. 159-11 reads as rewritten:

23 "§ 159-11. Preparation and submission of budget and budget message.

24 ...

25 (d) The budget officer shall include in the budget a proposed financial plan for each
26 intragovernmental service fund, as required by G.S. 159-13.1, and information concerning
27 capital ~~projects and projects, grant projects projects, and settlement agreement projects~~
28 authorized or to be authorized by project ordinances, as required by G.S. 159-13.2.

29"

30 SECTION 3. G.S. 159-13.2 reads as rewritten:

31 "§ 159-13.2. Project ordinances.

32 (a) Definitions. – Unless otherwise provided, the following definitions shall apply in this
33 section:

34 (1) ~~In this section "capital project" means a~~ Capital project. – A project financed
35 in whole or in part by the proceeds of bonds or notes or debt instruments or a
36 project involving the construction or acquisition of a capital asset.



(2) ~~"Grant project" means a~~ Grant project. – A project financed in whole or in part by revenues received from the federal and/or State government or other ~~grant or settlement funds~~ source for operating or capital purposes as defined by the grant contract.

(3) Settlement agreement project. – A project financed in whole or in part by revenues received from a settlement agreement.

(b) Alternative Budget Methods. – A local government or public authority may, in its discretion, authorize and budget for a capital ~~project or a project, grant project-project, or settlement agreement project~~ either in its annual budget ordinance or in a project ordinance adopted pursuant to this section. A project ordinance authorizes all appropriations necessary for the completion of the project and neither it nor any part of it need be readopted in any subsequent fiscal year. Neither a bond order nor an order authorizing any debt instrument constitutes a project ordinance.

(c) Adoption of Project Ordinances. – If a local government or public authority intends to authorize a capital ~~project or a project, grant project-project, or settlement agreement project~~ by a project ordinance, it shall not begin the project until it has adopted a balanced project ordinance for the life of the project. A project ordinance is balanced when revenues estimated to be available for the project equal appropriations for the project. A project ordinance shall clearly identify the project and authorize its undertaking, identify the estimated revenues that will finance the project, and make the appropriations necessary to complete the project. A local government or public authority may incur obligations and make disbursements authorized by the budget appropriations before receiving estimated revenues and may use available fund balance from the general fund or enterprise fund associated with the project to fund the disbursements.

...

(f) Inclusion of Project Information in Budget. – Each year the budget officer shall include in the budget information in such detail as he or the governing board may require concerning each ~~grant project or capital project-capital project, grant project, or settlement agreement project~~ (i) expected to be authorized by project ordinance during the budget year and (ii) authorized by previously adopted project ordinances which will have appropriations available for expenditure during the budget year."

SECTION 4. G.S. 159-25 reads as rewritten:

"§ 159-25. Duties of finance officer; dual signatures on checks; internal control procedures subject to Commission regulation.

...

(d) The Local Government Commission has the authority to require any finance officer or any other employee who performs the duties of a finance officer to participate in training related to the powers, duties, and responsibilities of the finance officer under any of the following circumstances: (i) the Commission is exercising its authority under Article ~~10-11~~ of this Chapter with respect to the employing local government or public authority, (ii) the employing local government or public authority has received a ~~unit~~ letter from the Commission due to a deficiency in complying with this Chapter, (iii) the employing local government or public authority has an internal control material weakness or significant deficiency in the most recently completed financial audit, or (iv) the finance officer fails to annually meet or attest to the minimum qualifications of the position, as established by the Commission. The training may be provided by the Commission, the School of Government at the University of North Carolina, the North Carolina Community College System, the North Carolina League of Municipalities, the North Carolina Association of County Commissioners, or other qualified sources at the choice of the governing board and upon the prior approval of the Commission. When the Commission requires a finance officer or other employee to participate in training as authorized in this subsection, the Commission shall notify the finance officer or other employee and the employing local government or public authority of the required training. Upon completion of the required training

1 by the finance officer or other employee, the employing local government or public authority
2 shall submit, in writing, to the Commission proof that the training requirements have been
3 satisfied.

4 (e) The Local Government Commission may require any local government or public
5 authority to contract with outside entities in accordance with the terms of subdivision (9)
6 subsection (a) of this section if the local government or public authority has received a ~~unit~~-letter
7 from the Commission due to a deficiency in complying with this Chapter or the local government
8 or public authority has an internal control finding in the most recently completed financial audit."

9 **SECTION 5.** G.S. 159-26 reads as rewritten:

10 "**§ 159-26. Accounting system.**

11 ...

12 (b) Funds Required. – Each local government or public authority shall establish and
13 maintain in its accounting system such of the following funds and ledgers as are applicable to it.
14 The generic meaning of each type of fund or ledger listed below is that fixed by generally
15 accepted accounting principles. [The funds and ledgers are as follows:]

16 ...

17 (2) Special Revenue Funds. – One or more separate funds shall be established for
18 each of the following classes: (i) functions or activities financed in whole or
19 in part by property taxes voted by the people, (ii) service districts established
20 pursuant to the Municipal or County Service District Acts, and (iii) grant
21 project ordinances–or settlement agreement project ordinances. If more than
22 one function is accounted for in a voted tax fund, or more than one district in
23 a service district fund, or more than one grant project or settlement agreement
24 project in a project fund, separate accounts shall be established in the
25 appropriate fund for each function, district, or project.

26"

27 **SECTION 6.** G.S. 159-28 reads as rewritten:

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

29 (a) Incurring Obligations. – No obligation may be incurred in a program, function, or
30 activity accounted for in a fund included in the budget ordinance unless the budget ordinance
31 includes an appropriation authorizing the obligation and an unencumbered balance remains in
32 the appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction
33 for the current fiscal year. No obligation may be incurred for a capital ~~project or a project~~, grant
34 project-project, or settlement agreement project authorized by a project ordinance unless that
35 project ordinance includes an appropriation authorizing the obligation and an unencumbered
36 balance remains in the appropriation sufficient to pay the sums obligated by the transaction.
37 Nothing in this section shall require a contract to be reduced to writing.

38 ...

39 (b) Disbursements. – When a bill, invoice, or other claim against a local government or
40 public authority is presented, the finance officer shall either approve or disapprove the necessary
41 disbursement. If the claim involves a program, function, or activity accounted for in a fund
42 included in the budget ordinance or a capital ~~project or a project~~, grant project-project, or
43 settlement agreement project authorized by a project ordinance, the finance officer may approve
44 the claim only if both of the following apply:

45"

46 **SECTION 7.(a)** G.S. 159-29 reads as rewritten:

47 "**§ 159-29. Fidelity bonds.**

48 (a) The finance officer shall give a true accounting and faithful performance bond with
49 sufficient sureties in an amount to be fixed by the governing board. A person may not be
50 appointed as a finance officer if the person is unable to obtain the bond required by this section.

1 The premium on the bond shall be paid by the local government or public authority. The amount
 2 of the bond fixed by the governing board may not be less than the greater of the following:

- 3 (1) Fifty thousand dollars (\$50,000).
- 4 (2) An amount equal to ten percent (10%) of the ~~unit's~~ annually budgeted funds,
 5 expenditures of the local government or public authority, up to a maximum
 6 bond amount of one million dollars (\$1,000,000). The amount of annually
 7 budgeted expenditures includes the amount of total expenditures, excluding
 8 transfers to other funds, in annually budgeted funds such as the general fund
 9 and enterprise funds but does not include project ordinances adopted under
 10 G.S. 159-13.2, intragovernmental service funds, and trust or custodial funds.
 11 For purposes of determining the minimum bond amount under this
 12 subdivision, the amount of annually budgeted expenditures shall be those
 13 expenditures included in the initial annual budget ordinance, excluding any
 14 interim budget ordinances, adopted by the local government or public
 15 authority under G.S. 159-8(a).

16 (b) Each officer, employee, or agent of a local government or public authority who
 17 handles or has in his custody more than one hundred dollars (\$100.00) of the ~~unit's~~-local
 18 government's or public authority's funds at any time, or who handles or has access to the
 19 inventories of the ~~unit~~-local government or public authority, shall, before being entitled to assume
 20 his duties, give a faithful performance bond with sufficient sureties payable to the local
 21 government or public authority. A person who is unable to secure the bond required by this
 22 section cannot assume the duties for which a bond is required under this section. The governing
 23 board shall determine the amount of the bond, and the ~~unit~~-local government or public authority
 24 may pay the premium on the bond. Each bond, when approved by the governing board, shall be
 25 deposited with the clerk to the board.

26"

27 **SECTION 7.(b)** This section applies to bonds purchased or renewed on or after
 28 January 1, 2023.

29 **SECTION 8.** G.S. 159-148 reads as rewritten:

30 **"§ 159-148. Contracts subject to Article; exceptions.**

31 ...

32 (b) This Article shall not apply to:

33 ...

- 34 (4) ~~Vehicles.~~ Contracts for the purchase, lease, or lease with option to purchase of motor
 35 vehicles, as defined in G.S. 20-4.01. This exemption shall not apply
 36 to ~~units~~ any of the following:

- 37 a. Units included on the most recently published Unit Assistance List
 38 issued by the Department of State Treasurer where the contract amount
 39 equals or exceeds fifty thousand dollars (\$50,000).
- 40 b. Motor vehicles exempt from registration under G.S. 20-51.
- 41 c. Vehicles, machinery, or equipment used for agricultural, horticultural,
 42 grounds maintenance, or landscaping purposes, including riding lawn
 43 mowers.
- 44 d. Heavy equipment, as defined in G.S. 153A-156.1."

45 **SECTION 9.** G.S. 159G-23 reads as rewritten:

46 **"§ 159G-23. Priority consideration for loan or grant from Wastewater Reserve or Drinking**
 47 **Water Reserve.**

48 The considerations for priority in this section apply to a loan or grant from the Wastewater
 49 ~~Reserve or Reserve,~~ the Drinking Water ~~Reserve-Reserve,~~ or the Viable Utility Reserve. The
 50 Division of Water Infrastructure must consider the following items when evaluating applications:

51 ...

1 (15) Local Government Commission assumption of control. – Whether the Local
 2 Government Commission has exercised its authority under Article 11 of
 3 Chapter 159 of the General Statutes to assume control of the financial affairs
 4 of an applicant."

5 **SECTION 10.** G.S. 159G-31 reads as rewritten:

6 "**§ 159G-31. Entities eligible to apply for loan or grant.**

7 ...

8 (d) A local government unit is eligible to apply for a grant from the Viable Utility
 9 Reserve. For purposes of eligibility for such a grant, multiple county water and sewer districts
 10 created in a county pursuant to Article 6 of Chapter 162A of the General Statutes shall be
 11 considered a single local government unit.

12 "

13 **SECTION 11.** G.S. 159G-45 reads as rewritten:

14 "**§ 159G-45. Assessment of local government units; assistance.**

15 ...

16 **(b1)** For purposes of conducting the assessment and identification of distressed units under
 17 this section, the Authority and the Commission shall consider multiple county water and sewer
 18 districts created in a county pursuant to Article 6 of Chapter 162A of the General Statutes as a
 19 single local government unit.

20 "

21 **SECTION 12.** G.S. 159G-36 reads as rewritten:

22 "**§ 159G-36. Limits on loans and grants.**

23 ...

24 (d) Viable Utility Reserve Recipient Limit. – Grants under the Viable Utility Reserve are
 25 limited as follows:

26 ...

27 (2) Grants for the purpose set forth in G.S. 159-32(d)(6) to any single local
 28 government unit shall not ~~(i)~~ exceed seven hundred fifty thousand dollars
 29 (\$750,000) in any fiscal year ~~and (ii) be awarded for more than three~~
 30 ~~consecutive fiscal years.~~ year."

31 **SECTION 13.** G.S. 160A-148 reads as rewritten:

32 "**§ 160A-148. Powers and duties of manager.**

33 (a) The manager shall be the chief administrator of the city. The manager shall be
 34 responsible to the council for administering all municipal affairs placed in the manager's charge
 35 by the council, and shall have the following powers and duties:

36 ...

37 (9) The manager shall receive a minimum of six clock hours of education upon
 38 the occurrence, or within six months of the occurrence, of any of the
 39 following:

40 a. The Local Government Commission is exercising its authority under
 41 Article ~~10-11~~ of Chapter 159 of the General Statutes with respect to
 42 the city.

43 b. The city has received a ~~unit~~-letter from the Local Government
 44 Commission due to a deficiency in complying with Chapter 159 of the
 45 General Statutes.

46 "

47 **SECTION 14.** Part 3 of Article 7 of Chapter 160A of the General Statutes is amended
 48 by adding a new section to read:

49 "**§ 160A-155.1. Required training for certain administrators.**

50 **(a)** If the council delegates its authority to administer municipal affairs to a person
 51 designated by the council as the town administrator or another title, that person shall receive a

1 minimum of six clock hours of education upon the occurrence, or within six months of the
2 occurrence, of any of the following:

3 (1) The Local Government Commission is exercising its authority under Article
4 11 of Chapter 159 of the General Statutes with respect to the city.

5 (2) The city has received a letter from the Local Government Commission due to
6 a deficiency in complying with Chapter 159 of the General Statutes.

7 (3) The city has an internal control material weakness or significant deficiency in
8 the most recently completed financial audit.

9 (4) The city is included on the most recently published Unit Assistance List issued
10 by the Department of State Treasurer.

11 (b) The education required by subsection (a) of this section shall incorporate fiscal
12 management and the requirements of Chapter 159 of the General Statutes. The education may be
13 provided by the Local Government Commission, the School of Government at the University of
14 North Carolina, the North Carolina Community College System, the North Carolina League of
15 Municipalities, the North Carolina Association of County Commissioners, or other qualified
16 sources at the choice of the council and upon the prior approval of the Local Government
17 Commission. The city clerk shall maintain a record verifying receipt of the education by the town
18 administrator, or whatever title designated, and shall provide this information, upon request, to
19 the Secretary of the Local Government Commission."

20 **SECTION 15.** G.S. 160A-850 reads as rewritten:

21 "**§ 160A-850. Effect of merger or dissolution.**

22 ...

23 (d) The Commission shall certify that all applicable provisions of subsection (a) of this
24 section have been met and, not less than 30 days thereafter, the Commission shall submit the
25 certification, resolution of transfer and dissolution, and legal references to all transfers of real
26 property to the Secretary of State and the Legislative Library."

27 **SECTION 16.** Section 3 of S.L. 2016-45, as amended by Section 1 of S.L. 2019-29,
28 reads as rewritten:

29 "**SECTION 3.** This act becomes effective July 1, 2016, and expires ~~June 30, 2023.~~June 30,
30 2026."

31 **SECTION 17.** Section 1.5(g) of S.L. 2019-29 reads as rewritten:

32 "**SECTION 1.5.(g)** This section becomes effective July 1, 2019, and expires ~~June 30,~~
33 ~~2024.~~June 30, 2026."

34 **SECTION 18.** Except as otherwise provided, this act is effective when it becomes
35 law.