

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 799

Short Title: Local Government Audits. (Public)

Sponsors: Representatives Winslow, Setzer, Penny, and Zenger (Primary Sponsors).
For a complete list of sponsors, refer to the North Carolina General Assembly web site.

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

April 19, 2023

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT ANNUAL AUDITS OF UNITS OF LOCAL GOVERNMENT
AND LOCAL SCHOOL ADMINISTRATIVE UNITS BE CONDUCTED BY AN
ACCOUNTANT CERTIFIED BY THE STATE AUDITOR AND TO APPROPRIATE
FUNDS TO THE COUNCIL OF STATE GOVERNMENTS TO ASSIST LOCAL
GOVERNMENTS WITH FINANCIAL RECORD KEEPING.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 159-34 reads as rewritten:

"§ 159-34. Annual independent audit; rules and regulations.

(a) Each unit of local government and public authority shall have its accounts audited as soon as possible after the close of each fiscal year-year. The audit shall be conducted by a certified public accountant or ~~by an accountant~~ accountant, who shall be certified by the Commission State Auditor as qualified to audit local government accounts. When specified by the secretary, the audit shall evaluate the performance of a unit of local government or public authority with regard to compliance with all applicable federal and State agency regulations. This audit, combined with the audit of financial accounts, shall be deemed to be the single audit described by the "Federal Single Audit Act of 1984".

(a1) The auditor shall be selected by and shall report directly to the governing board. The State Auditor shall solicit bids for conducting the audit by sealed bid. The governing board shall select the auditor from those sealed bids based on solely cost and time for completion of the audit and without information as to identity of the bidder.

(a2) The audit contract or agreement shall comply with all of the following:

(i) ~~(1) be Be in writing, writing.~~

(ii) ~~(2) include Include~~ the entire entity in the scope of the audit, except that an audit for purposes other than the annual audit required by this section should include an accurate description of the scope of the ~~audit, audit.~~

(iii) ~~(3) require Require~~ that a typewritten or printed report on the audit be prepared as set forth herein,

(iv) ~~(4) include Include~~ all of its terms and ~~conditions, and conditions.~~

(v) ~~(5) be Be~~ submitted to the secretary for ~~his~~ approval as to form, terms, conditions, and compliance with the rules of the Commission.

(a3) As a minimum, the required report shall include the financial statements prepared in accordance with generally accepted accounting principles, all disclosures in the public interest required by law, and the auditor's opinion and comments relating to financial statements. The



1 audit shall be performed in conformity with generally accepted auditing standards. The finance
2 officer shall file a copy of the audit report with the secretary, and shall submit all bills or claims
3 for audit fees and costs to the secretary for ~~his~~ approval. Before giving ~~his~~ approval the secretary
4 shall determine that the audit and audit report substantially conform to the requirements of this
5 section. It shall be unlawful for any unit of local government or public authority to pay or permit
6 the payment of such bills or claims without ~~this approval~~ the approval of the secretary.

7 (a4) Each officer and employee of the local government or local public authority having
8 custody of public money or responsibility for keeping records of public financial or fiscal affairs
9 shall produce all books and records requested by the auditor and shall divulge such information
10 relating to fiscal affairs as ~~he may request~~ may be requested. If any member of a governing board
11 or any other public officer or employee shall conceal, falsify, or refuse to deliver or divulge any
12 books, records, or information, with an attempt thereby to mislead the auditor or impede or
13 interfere with the audit, ~~he~~ that individual is guilty of a Class 1 misdemeanor.

14 (b) ~~The Local Government~~ Commission has authority to issue rules and regulations for
15 the purpose of improving the quality of auditing and the quality and comparability of reporting
16 pursuant to this section or any similar section of the General Statutes. The rules and regulations
17 may consider the needs of the public for adequate information and the performance that the
18 auditor has demonstrated in the past, and may be varied according to the size, purpose or function
19 of the unit, or any other criteria reasonably related to the purpose or substance of the rules or
20 regulation. The State Auditor shall establish a process for certified public accountants and
21 accountants to become certified to conduct annual audits under this section. Any certified public
22 accountant or accountant certified to conduct annual audits may be removed for cause.

23 (c) Notwithstanding any other provision of law, except for Article 5A of Chapter 147 of
24 the General Statutes pertaining to the State Auditor, all State departments and agencies shall rely
25 upon the single audit accepted by the secretary as the basis for compliance with applicable federal
26 and State regulations. All State departments and agencies which provide funds to local
27 governments and public authorities shall provide the Commission with documents that the
28 Commission finds are in the prescribed format describing standards of compliance and suggested
29 audit procedures sufficient to give adequate direction to independent auditors retained by local
30 governments and public authorities to conduct a single audit as required by this section. The
31 secretary shall be responsible for the annual distribution of all such standards of compliance and
32 suggested audit procedures proposed by State departments and agencies and any amendments
33 thereto. Further, the Commission with the cooperation of all affected State departments and
34 agencies shall be responsible for the following:

- 35 (1) Procedures for the timely distribution of compliance standards developed by
36 State departments and agencies, reviewed and approved by the Commission
37 to auditors retained by local governments and public authorities.
- 38 (2) Procedures for the distribution of single audits for local governments and
39 public authorities such that they are available to all State departments and
40 agencies which provide funds to local units.
- 41 (3) The acceptance of single audits on behalf of all State departments and
42 agencies; provided that, the secretary may subsequently revoke such
43 acceptance for cause, whereupon affected State departments and agencies
44 shall no longer rely upon such audit as the basis for compliance with
45 applicable federal and State regulations.

46 (d) Notwithstanding the requirement that the auditor is selected by and reports directly to
47 the governing board in subsection (a) of this section, the Commission may require the governing
48 board of a unit of local government or public authority that has been the subject of an
49 investigative audit with findings by the State Auditor, upon receipt of the investigative audit
50 report in accordance with G.S. 147-64.6(c)(14), to select the certified public accountant to
51 conduct the annual audit required by this section from a list of three certified public accountants

1 provided by the Commission. The Commission may instruct the Secretary to issue a request for
2 proposals when selecting a certified public accountant under this subsection. Upon exercise of
3 this authority granted by this subsection, the certified public accountant shall report directly to
4 the Commission and governing board, shall comply with all rules of the Commission, and shall
5 be paid by the governing board. The Commission may exercise the authority granted by this
6 subsection for up to three fiscal years after the release of the investigative report with findings
7 by the State Auditor.

8 (e) The secretary shall report annually to the Commission and the General Assembly a
9 list of units of local government and public authorities failing to complete and report to the
10 Commission, in a timely fashion, two or more consecutive annual audits as required by this
11 section."

12 **SECTION 2.** G.S. 115C-447 reads as rewritten:

13 **"§ 115C-447. Annual independent audit.**

14 (a) Each local school administrative unit shall have its accounts and the accounts of
15 individual schools therein audited as soon as possible after the close of each fiscal year by a
16 certified public accountant or by an ~~accountant~~ accountant, who shall be certified by the Local
17 ~~Government Commission~~ State Auditor as qualified to audit local government accounts. The
18 auditor who audits the accounts of a local school administrative unit shall also audit the accounts
19 of its individual schools.

20 (a1) The auditor shall be selected by and shall report directly to the board of education.
21 The State Auditor shall solicit bids for conducting the audit by sealed bid. The board of education
22 shall select the auditor from those sealed bids based on solely cost and time for completion of the
23 audit and without information as to identity of the bidder.

24 (a2) The audit contract shall be in writing, shall include all its terms and conditions, and
25 shall be submitted to the Secretary of the Local Government Commission for his approval as to
26 form, terms and conditions. The terms and conditions of the audit contract shall include the scope
27 of the audit, and the requirement that upon completion of the examination the auditor shall
28 prepare a typewritten or printed report embodying financial statements and his ~~the auditor's~~
29 opinion and comments relating thereto. The financial statements accompanying the auditor's
30 report shall be prepared in conformity with generally accepted accounting principles. The auditor
31 shall file a copy of the audit report with the Secretary of the Local Government Commission, the
32 State Board of Education, the board of education and the board of county commissioners, and
33 shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government
34 Commission for his approval. It shall be unlawful for any local school administrative unit to pay
35 or permit the payment of such bills or claims without this approval. ~~approval of the Secretary.~~

36 (a3) Each officer, employee and agent of the local school administrative unit having
37 custody of public money or responsibility for keeping records of public financial or fiscal affairs
38 shall produce all books and records requested by the auditor and shall divulge such information
39 relating to fiscal affairs as he may request. ~~may be requested.~~ If any member of a board of
40 education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver
41 or divulge any books, records, or information, with an intent thereby to mislead the auditor or
42 impede or interfere with the audit, he ~~the individual~~ is guilty of a Class 1 misdemeanor.

43 (a2) The State Auditor shall have authority to prescribe the manner in which funds
44 disbursed by administrative units by warrants on the State Treasurer shall be audited.

45 (b) When the State Board of Education finds that incidents of fraud, embezzlement, theft,
46 or management failures in a local school administrative unit make it appropriate to review the
47 internal control procedures of the unit, the State Board of Education shall so notify the unit. If
48 the incidents were discovered by the firm performing the audit under subsection (a) of this
49 section, the board of the local school administrative unit shall submit the audit together with a
50 plan for any corrective actions relative to its internal control procedures to the State Board of
51 Education and the Local Government Commission for approval and shall implement the

1 approved changes prior to the next annual audit. Where the firm preparing the audit under
2 subsection (a) of this section identifies significant problems with internal control procedures the
3 local school administrative unit shall submit the audit together with a plan for any corrective
4 actions relative to its internal control procedures to the State Board of Education and the Local
5 Government Commission for approval and shall implement the approved changes prior to the
6 next annual audit.

7 (c) If the incidents were not discovered by the firm performing the audit under subsection
8 (a) of this section, the State Board of Education and the Local Government Commission shall
9 employ an audit firm to review the internal control procedures of that local school administrative
10 unit. Upon completion of this review, the audit firm shall report publicly to the State Board of
11 Education, the Local Government Commission, and the board of the local school administrative
12 unit. If the State Board of Education determines that significant changes are needed in the internal
13 control procedures of the local school administrative unit, the local board shall submit a plan of
14 corrective actions to the State Board of Education and the Local Government Commission for
15 approval and shall implement the approved changes prior to the next annual audit. The local
16 school administrative unit shall pay the cost of this audit.

17 (d) The Commission has authority to issue rules and regulations for the purpose of
18 improving the quality of auditing and the quality and comparability of reporting pursuant to this
19 section or any similar section of the General Statutes. The rules and regulations may consider the
20 needs of the public for adequate information and the performance that the auditor has
21 demonstrated in the past and may be varied according to the size, purpose, or function of the unit,
22 or any other criteria reasonably related to the purpose or substance of the rules or regulations.
23 The State Auditor shall establish a process for certified public accountants and accountants to
24 become certified to conduct annual audits under this section. Any certified public accountant or
25 accountant certified to conduct annual audits may be removed for cause.

26 (e) The Secretary shall report annually to the Commission and the General Assembly a
27 list of local school administrative units failing to complete and report to the Commission, in a
28 timely fashion, two or more consecutive annual audits as required by this section."

29 **SECTION 3.** There is appropriated the sum of three million five hundred fifty-two
30 thousand dollars (\$3,520,000) to the North Carolina Association of Regional Council of
31 Governments recurring to create a financial administration program. This program shall provide
32 the resources to employ 32 additional finance professionals in the 16 regions to assist small local
33 governments and public authorities with returning to a compliant status, with priority for local
34 governments and public authorities with limited means and those local governments or public
35 authorities on the Unit Assistance List published by the Local Government Commission
36 annually.

37 **SECTION 4.** This act becomes effective July 1, 2023, and applies to annual audits
38 conducted on or after that date.