

May 12, 2010

**S 1112. MODERNIZATION OF THE STATE ABC SYSTEM.** Filed 5/12/10. *TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.*

This act provides the North Carolina Alcoholic Beverage Commission authority to create performance standards and training requirements for local board members and employees, applies ethics requirements, limits compensation of board members and employees, and provides additional accountability measures.

*Definitions.* Adds the following definitions to GS 188-101: (1) *Finance officer* – the local board employee, other than a general manager, responsible for keeping the accounts of a local board, receiving and depositing receipts, disbursing funds, and any other duties assigned by the local board or Commission and (2) *General manager* – the local board employee that is responsible for the oversight of daily operations of the ABC system and any other duties assigned by the local board or Commission. Makes technical changes.

*Powers of the Commission.* Enacts new GS 18B-203(a)(20) and (21) to authorize the ABC Commission (Commission) to establish mandatory training requirements for local board members, managers, and employees, and to establish performance standards for local boards.

*Law Enforcement.* Amends GS 18B-501 to require that contracted law enforcement agencies' officers receive the same training in ABC law enforcement that is provided to local ABC officers before they are certified to inspect the licensed premises. Places identical training requirements on inspecting officers from a non-contracted local law enforcement agency. Directs local ABC officers and contracted law-enforcement agencies to report to the local board (1) the number of arrests made at ABC-permitted outlets and other locations for ABC law, Controlled Substance Act, or other violations; (2) the number of agencies assisted with ABC law or controlled substance matters; and (3) the number of alcohol education and responsible server programs presented. The local board submits the report to the Commission, which publishes the report on the Internet. Makes officers with contracted law enforcement agencies subject to the discharge provisions of GS 18B-202.

*Elections.* Amends GS 18B-600(e) to authorize a city to hold a mixed beverage election if the city has at least 500 registered voters (removing the additional requirements of previously operating an ABC store, simultaneously holding a city ABC store election, or requiring that the county operate an ABC store and the last mixed beverage election failed).

*Local ABC Boards.* Provides that GS 18B-700 (appointment and organization of local ABC boards) supersedes local acts and applies to all local boards. Enacts new GS 18B-700(a1) to add a mission statement indicating that local ABC boards will responsibly serve their localities and promote efficient stores. Amends GS 18B-701 to require that local boards comply with all Commission rules, performance standards, and training requirements; failure to comply is cause for removal.

*Compensation and Bond Requirements.* Amends GS 18B-700 to limit compensation, effective January 1, 2011, for local board members to \$150 per board meeting unless the appointing authority approves a different amount and notifies the Commission, in writing, of the approved level of compensation. Prohibits local board members from receiving non-monetary compensation or benefits unless specifically authorized. Enacts new GS 18B-700(g1) to limit a local board general manager's salary to the salary received by the clerk of superior court in the county in which the appointing authority was originally incorporated, unless the appointing authority authorizes different compensation and notifies the Commission in writing. Allows a general manager to receive any other benefits that all local board employees are entitled to. Prohibits other local board employees from receiving higher compensation than the general manager. Enacts new GS 18B-700(g2) to reimburse, effective October 1, 2010, board members and employees for approved travel expenses under the state employee rules, unless the appointing authority approves a different travel policy and provides written confirmation to the Commission. Amends GS 18B-700(i) to require that each local board member and general manager or finance officer be bonded for not less than \$100,000; the bond requirement may be increased for any member or employee handling board funds, and members not handling board funds are no longer exempt from the bond requirement.

*Family.* Enacts new GS 18B-700(k), effective October 1, 2010, to limit the employment of immediate family members at a local board: one member of the immediate family may not supervise another, and one member of the immediate family may not hold a position with influence over another family member's employment, promotion, salary, administration, or other related matters. Provides definition of *immediate family* for the section's purposes. Supersedes local acts and applies to all local boards.

*Financial Operations.* Amends GS 18B-702 to require that each local board prepare, adopt, and operate under an annual balanced budget. Designates the general manager of the local board as the budget officer, and explains the duties and powers of the finance officer. Provides for the filing and publication of the budget, public hearings and adoption and amendment of the budget. Obligates each local board to establish an accounting system and specifies procedures for incurring obligations, disbursing funds, and paying claims. Explains the penalties for violating the financial operations provisions. Supersedes local acts and applies to all local boards, effective May 1, 2011.

*Removal Process.* Enacts new GS 18B-704 to regulate the removal process for local board members and employees. Provides list of causes subject to removal; requires that board member or employee receive, in writing, the reason for removal; makes available a hearing before the Commission (not subject to Chapter 150B) and grants final removal decision to Commission (with appeal to the Court of Appeals). Prohibits the Commission from coercing or influencing the appointing and hiring decisions at local boards. Supersedes local acts and applies to all local boards.

*Ethics Requirements and Performance Standards.* Enacts new GS 18B-706 to require that each local board adopt a policy containing a code of ethics to instruct ABC board members and employees. Directs each board member to receive a minimum of two hours of ethics education within 12 months of initial appointment, and again within 12 months after each subsequent appointment to the office. Requires the local board to document that each board member received the ethics training, and allows the board to require ethics training for employees. Enacts new GS 18B-705 to require that the Commission monitor local board compliance with promulgated performance standards, produce a performance improvement plan including recommendations and timelines for failing boards, and supervise implementation of the plan or further remedial measures. Allows the Commission to recommend, to the local board and appointing authority, to close a store or stores, relocate store locations, merge the local board with another local board, create joint store operations, or abolish the local board. Supersedes local acts and applies to all local boards.

*Operation of ABC Stores.* Amends GS 18B-801(b) to allow the Commission to consider the proximity of the proposed new location to existing ABC stores when a local board is seeking approval for a new store's site. Amends GS 18B-801(d) to authorize the Commission to merge an insolvent local board with another local board, or create a joint operation with other store(s), instead of closing an insolvent system.

Makes other conforming changes. Effective October 1, 2010, unless otherwise indicated.

**Intro. by Vaughan.**

GS 18B