

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019

H

D

HOUSE BILL 233
PROPOSED SENATE COMMITTEE SUBSTITUTE H233-PCS30458-SB-9

Short Title: State Auditor/Local Finance Officer Amends.

(Public)

Sponsors:

Referred to:

March 4, 2019

A BILL TO BE ENTITLED

AN ACT TO REQUIRE A NON-STATE ENTITY THAT RECEIVES STATE FUNDS TO POST THE OFFICE OF THE STATE AUDITOR'S HOTLINE, TO ALLOW THE OFFICE OF THE STATE AUDITOR TO DETERMINE THE LENGTH OF TIME THAT A STATE AGENCY MAY RESPOND TO AN AUDIT OF ECONOMY AND EFFICIENCY OR AN AUDIT OF PROGRAM RESULTS, TO EXPAND THE TYPE OF RECORDS THE OFFICE OF THE STATE AUDITOR MAY SHARE WITH STATE AND FEDERAL AGENCIES, TO CLARIFY THAT THE PRODUCTION OF DOCUMENTS TO THE OFFICE OF THE STATE AUDITOR DOES NOT WAIVE THE ATTORNEY-CLIENT OR ATTORNEY WORK-PRODUCT PRIVILEGES, TO CLARIFY THAT THE OFFICE OF THE STATE AUDITOR IS NOT REQUIRED TO ADOPT UNNECESSARY RULES, AND TO AMEND LOCAL GOVERNMENT FINANCE OFFICER LAWS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) G.S. 143C-6-23(g) reads as rewritten:

"(g) Audit Oversight. – The State Auditor has audit oversight, with respect to grant funds received by the grantee or subgrantee, pursuant to Article 5A of Chapter 147 of the General Statutes, of every grantee or subgrantee that receives, uses, or expends grant funds. A grantee or subgrantee ~~must~~, shall, upon request, furnish to the State Auditor for audit all books, records, and other information necessary for the State Auditor to account fully for the use and expenditure of grant funds received by the grantee or subgrantee. The grantee or subgrantee ~~must~~ shall furnish any additional financial or budgetary information requested by the State Auditor, including audit work papers in the possession of any auditor of a grantee or subgrantee directly related to the use and expenditure of grant funds. The grantee or subgrantee shall post conspicuously in its office the State Auditor's hotline telephone number, as described in G.S. 147-64.6B(a)."

SECTION 1.(b) This section becomes effective July 1, 2019.

SECTION 2. G.S. 147-64.6(c) reads as rewritten:

"(c) The Auditor ~~shall be~~ is responsible for the following acts and activities:

...

(13) At the conclusion of an audit, the Auditor or the Auditor's designated representative shall discuss the audit with the official whose office is subject to audit and submit necessary underlying facts developed for all findings and recommendations which may be included in the audit report. On audits of economy and efficiency and program results, the auditee's written response shall be included in the final report if received within 15 to 30 days from receipt of the draft report. The length of time shall be determined by the



* H 2 3 3 - P C S 3 0 4 5 8 - S B - 9 *

Auditor and shall be commensurate with the number and complexity of the findings.

...."

SECTION 3. G.S. 147-64.6(d) reads as rewritten:

"(d) Reports and Work Papers. – The Auditor shall maintain for 10 years a complete file of all audit reports and reports of other examinations, investigations, surveys, and reviews issued under the Auditor's authority. Audit work papers and other evidence and related supportive material directly pertaining to the work of the Auditor's office shall be retained according to an agreement between the Auditor and State Archives. To promote intergovernmental cooperation and avoid unnecessary duplication of audit effort, and notwithstanding the provisions of G.S. 126-24, pertinent work papers and other supportive material related to issued audit reports an audit or investigation made pursuant to this section may be, at the discretion of the Auditor and unless otherwise prohibited by law, made available for inspection by duly authorized representatives of the State and federal government who desire access to and inspection of ~~such~~ the records in connection with some matter officially before them, including criminal investigations.

Except as provided in this section, or upon an order issued in Wake County Superior Court upon 10 days' notice and hearing finding that access is necessary to a proper administration of justice, audit work papers and related supportive material shall be kept confidential, including any interpretations, advisory opinions, or other information or materials furnished to or by the Bipartisan State Board of Elections and Ethics Enforcement under this section."

SECTION 4. G.S. 147-64.7 is amended by adding a new subsection to read:

"(d) No Waiver. – The production of documents or information required by this section does not constitute a waiver or an impairment of the attorney-client privilege or the attorney work-product privilege."

SECTION 5. G.S. 147-64.9 reads as rewritten:

"§ 147-64.9. Rules and regulations. Rules.

The Auditor shall make and enforce ~~such reasonable~~ only those rules and regulations as are ~~that the Auditor determines are reasonably~~ necessary for the operation of ~~his~~ the Auditor's office. The Auditor shall install an adequate accounting system for ~~his~~ the office and shall keep or cause to be kept a complete, accurate, and adequate record of all fiscal transactions of ~~his~~ the office."

SECTION 6.1. G.S. 159-24 reads as rewritten:

"§ 159-24. Finance officer.

Each local government and public authority ~~shall appoint a finance officer to hold office at the pleasure of the appointing board or official.~~ shall, at all times, have a finance officer appointed by the local government, public authority, or designated official to hold office at the pleasure of the appointing board or official. The finance officer may be entitled "accountant," "treasurer," "finance director," "finance officer," or any other reasonably descriptive title. The duties of the finance officer may be imposed on the budget officer or any other officer or employee on whom the duties of budget officer may be imposed."

SECTION 6.2. G.S. 159-25 reads as rewritten:

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

(a) The finance officer shall have the following powers and duties:

- (1) Keep the accounts of the local government or public authority in accordance with generally accepted principles of governmental accounting and the rules and regulations of the Commission.
- (2) Disburse all funds of the local government or public authority in strict compliance with this Chapter, the budget ordinance, and each project ordinance and shall preaudit obligations and disbursements as required by this Chapter.

- 1 (3) Prepare and file with the board a statement of the financial condition of the
2 local government or public authority, as often as may be requested by the
3 governing board or the manager.
- 4 (4) Receive and deposit all moneys accruing to the local government or public
5 authority, or supervise the receipt and deposit of money by other duly
6 authorized officers or employees.
- 7 (5) Maintain all records concerning the bonded debt and other obligations of the
8 local government or public authority, determine the amount of money that will
9 be required for debt service or the payment of other obligations during each
10 fiscal year, and maintain all sinking funds.
- 11 (6) Supervise the investment of idle funds of the local government or public
12 authority.
- 13 (7) Perform such other duties as may be assigned by law, by the manager, budget
14 officer, or governing board, or by rules and regulations of the Commission.
- 15 (8) Attend any training required by the Local Government Commission under this
16 section.
- 17 (9) Contract with outside entities, including certified public accountants in good
18 standing with the North Carolina State Board of Certified Public Accountant
19 Examiners, bookkeeping firms, councils of government, and other units of
20 government, to ensure fulfillment of the duties enumerated in this subsection,
21 excluding subdivision (6), except where specifically allowed by law, and
22 subdivision (8). Regardless of the entity performing such duties, the authority,
23 powers, and duties of the finance officer shall not be superseded, and the
24 responsibility for accurate and timely fulfillment of duties lies solely with the
25 finance officer.

26 All references in other portions of the General Statutes, local acts, or city charters to county, city,
27 special district, or public authority accountants, treasurers, or other officials performing any of
28 the duties conferred by this section on the finance officer shall be deemed to refer to the finance
29 officer.

30 (b) Except as otherwise provided by law, all checks or drafts on an official depository
31 shall be signed by the finance officer or a properly designated deputy finance officer and
32 countersigned by another official of the local government or public authority designated for this
33 purpose by the governing board. If the board makes no other designation, the chairman of the
34 board or chief executive officer of the local government or public authority shall countersign
35 these checks and drafts. The governing board of a unit or authority may waive the requirements
36 of this subsection if the board determines that the internal control procedures of the unit or
37 authority will be satisfactory in the absence of dual signatures.

38 (c) The Local Government Commission has authority to issue rules and regulations
39 having the force of law governing procedures for the receipt, deposit, investment, transfer, and
40 disbursement of money and other assets by units of local government and public authorities, may
41 inquire into and investigate the internal control procedures of a local government or public
42 authority, ~~and~~ may require any modifications in internal control procedures which, in the opinion
43 of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public
44 ~~moneys.~~ moneys, and may adopt rules establishing minimum qualifications for finance officers.

45 (d) The Local Government Commission has the authority to require any finance officer
46 or any other employee who performs the duties of a finance officer to participate in training
47 related to the powers, duties, and responsibilities of the finance officer, if officer under any of
48 the following circumstances: (i) the Commission is exercising its authority under Article 10 of
49 this Chapter with respect to the employing local government or public authority or authority, (ii)
50 the employing local government or public authority has received a unit letter from the
51 Commission due to a deficiency in complying with this Chapter. Chapter, (iii) the employing

1 local government or public authority has an internal control material weakness or significant
2 deficiency in the most recently completed financial audit, or (iv) the finance officer fails to
3 annually meet or attest to the minimum qualifications of the position, as established by the Local
4 Government Commission. The Commission may collaborate with the School of Government at
5 the University of North Carolina, the North Carolina Community College System, and other
6 educational institutions in the State to develop and deliver the training required by this
7 subsection. When the Commission requires a finance officer or other employee to participate in
8 training as authorized in this subsection, the Commission shall notify the finance officer or other
9 employee and the employing local government or public authority of the required training. Upon
10 completion of the required training by the finance officer or other employee, the employing local
11 government or public authority shall submit, in writing, to the Commission proof that the training
12 requirements have been satisfied.

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

18 **SECTION 7.** Except as otherwise provided, this act is effective when it becomes
19 law.