

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 205
Committee Substitute Favorable 3/21/23
PROPOSED COMMITTEE SUBSTITUTE H205-PCS30218-BDf-9

Short Title: Transparent Governance & Integrity Act.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

1 A BILL TO BE ENTITLED
2 AN ACT PROVIDING FOR GREATER TRANSPARENCY IN AND MAINTENANCE OF
3 STATE AND LOCAL GOVERNMENT FINANCIAL MATTERS.

4 The General Assembly of North Carolina enacts:

5 SECTION 1. G.S. 143-318.10 reads as rewritten:

6 "§ 143-318.10. All official meetings of public bodies open to the public.

7 ...

8 (b) As used in this Article, "public body" means any elected or appointed authority,
9 board, commission, committee, council, or other body of the State, or of one or more counties,
10 cities, school administrative units, constituent institutions of The University of North Carolina,
11 or other political subdivisions or public corporations in the ~~State~~ State, whether established by
12 the North Carolina Constitution or otherwise, that (i) is composed of two or more members and
13 (ii) exercises or is authorized to exercise a legislative, policy-making, quasi-judicial,
14 administrative, or advisory function. In addition, "public body" means the governing board of a
15 "public hospital" as defined in G.S. 159-39 and the governing board of any nonprofit corporation
16 to which a hospital facility has been sold or conveyed pursuant to G.S. 131E-8, any subsidiary
17 of such nonprofit corporation, and any nonprofit corporation owning the corporation to which
18 the hospital facility has been sold or conveyed.

19"

20 SECTION 2.(a) G.S. 132-1 reads as rewritten:

21 "§ 132-1. "Public records" defined.

22 (a) "Public record" or "public records" shall mean all documents, papers, letters, maps,
23 books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing
24 records, artifacts, or other documentary material, regardless of physical form or characteristics,
25 made or received pursuant to law or ordinance in connection with the transaction of public
26 business by any agency of North Carolina government or its subdivisions. Agency of North
27 Carolina government or its subdivisions shall mean and include every public body subject to
28 Article 33C of Chapter 143 of the General Statutes and every public office, public officer or
29 official (State or local, elected or appointed), institution, board, commission, bureau, council,
30 department, authority or other unit of government of the State or of any county, unit, special
31 district or other political subdivision of government.

32 (b) The public records and public information compiled by the agencies of North
33 Carolina government or its subdivisions are the property of the people. Therefore, it is the policy
34 of this State that the people may obtain copies of their public records and public information free



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1 or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost"
2 shall mean the actual cost of reproducing the public record or public information.

3 (c) No agency of North Carolina government or its subdivisions may enter into a
4 non-disclosure agreement in order to restrict access to public records subject to disclosure under
5 this Chapter. The contract by which an agency of North Carolina government or its subdivisions
6 agree not to disclose information deemed confidential under the statutes shall be a public record,
7 unless the existence of such contract is also deemed confidential under the statutes. If a
8 non-disclosure agreement is associated with one or more closed session meetings under Article
9 33C of Chapter 143 of the General Statutes, the non-disclosure agreement shall be included in
10 the minutes of each closed session meeting."

11 **SECTION 2.(b)** This section becomes effective October 1, 2023, and applies to any
12 non-disclosure agreement entered into on or after that date.

13 **SECTION 3.(a)** G.S. 147-13 reads as rewritten:

14 "**§ 147-13. May convene Council of State; quorum; journal.**

15 (a) The Governor may convene the Council of State for consultation whenever ~~he~~the
16 Governor may deem it proper. The Governor shall convene the Council of State whenever the
17 statutes call for the concurrence, advice, discretion, opinion, or consent of the Council of State.
18 In all meetings of the Council of State, five members exclusive of the Governor shall constitute
19 a quorum.

20 (b) ~~The advice and~~ proceedings of the Council of State shall be entered in a journal, to be
21 kept for this purpose exclusively and signed by all members present. Any member of the Council
22 of State may have entered in the journal ~~his~~the member's dissent to any part of the journal. The
23 journal shall be maintained by the Governor and shall be placed before the General Assembly
24 when called for by either house.

25 (c) The convening of the Council of State shall be subject to Article 33C of Chapter 143
26 of the General Statutes, and the minutes required under that Article shall include the journal kept
27 in accordance with this section."

28 **SECTION 3.(b)** This section becomes effective October 1, 2023.

29 **SECTION 4.(a)** On or before October 1, 2023, the Council of State shall adopt rules
30 establishing a comprehensive system of parliamentary procedure, including the method of
31 introducing and considering resolutions presented by members of the Council of State and the
32 posting of the journal and minutes online. If the Council of State fails to adopt rules as required
33 by this section, Mason's Manual of Legislative Procedure shall apply to all meetings of the
34 Council of State held after October 1, 2023, and the Governor shall provide for the posting of all
35 minutes and the journal online within 10 business days of each meeting of the Council of State.

36 **SECTION 4.(b)** On or before October 1, 2023, the Council of State shall review its
37 department rules, as recorded in Chapter 1 of Title 06 of the North Carolina Administrative Code
38 for compliance and conformity with the General Statutes and Sections 2 through 5 of this act,
39 and initiate any amendments to those rules by that date.

40 **SECTION 5.(a)** Part 3 of Article 4 of Chapter 153A of the General Statutes is
41 amended by adding a new section to read:

42 "**§ 153A-54. Financial management education required.**

43 Each member of the governing board shall participate in financial management education as
44 provided in G.S. 160A-89."

45 **SECTION 5.(b)** Part 3A of Article 5 of Chapter 160A of the General Statutes reads
46 as rewritten:

47 "~~Part 3A. Ethics Codes and Education Programs.~~Codes; Education Programs.

48 ...

49 "**§ 160A-89. Financial management education required.**

50 (a) A financial management education program of no less than six clock hours shall be
51 available to governing board members. The financial management education program shall cover

1 the laws and principles that govern local government fiscal and debt management, including
2 Chapter 159 of the General Statutes.

3 (b) Each member of the governing board is encouraged to complete the financial
4 management education offered in accordance with this section. Each member of the governing
5 board shall complete the financial management education if either of the following applies:

6 (1) The Local Government Commission is exercising its authority under Article
7 11 of Chapter 159 of the General Statutes and has assumed control of the
8 financial affairs of the local government.

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

11 (c) The clerk to the governing board shall maintain a verified record of completion by
12 each governing board member attending the financial management education program. The clerk
13 to the governing board shall provide the verification to the Secretary of the Local Government
14 Commission, upon request.

15 (d) The financial management training shall be completed by the governing board
16 members within three months of any of the events described in subdivision (b)(1) or (b)(2) of
17 this section.

18 (e) This section shall not apply to a governing board member who has completed
19 financial management education within 24 months prior to the date the local government on
20 whose governing board the member serves is included on the Unit Assistance List.

21 (f) The financial management education program may be provided by the Local
22 Government Commission, the North Carolina League of Municipalities, the North Carolina
23 Association of County Commissioners, the School of Government at the University of North
24 Carolina at Chapel Hill, the North Carolina Community College System, or other qualified source
25 at the choice of the governing board with prior approval of the Local Government Commission.

26 (g) For purposes of this section, the phrase "member of the governing board" means
27 anyone elected or appointed to the governing board of a county, city, or consolidated city-county
28 at any of the following times:

29 (1) Is in office on the date the Local Government Commission exercises its
30 authority under Article 11 of Chapter 159 of the General Statutes and assumes
31 control of the financial affairs of the county, or takes office before the Local
32 Government Commission relinquishes control of the financial affairs of the
33 county.

34 (2) Is in office on the date the local government is included on the Unit Assistance
35 List, or takes office within 12 months of that date."

36 **SECTION 5.(c)** Part 3 of Article 7 of Chapter 160A of the General Statutes is
37 amended by adding a new section to read:

38 **"§ 160A-155.1. Required training for certain administrators.**

39 (a) Any person to whom the council delegates its authority to administer the city under
40 G.S. 160A-155 shall receive a minimum of six clock hours of financial management education
41 upon the occurrence of, or within six months of the occurrence of, any of the following:

42 (1) The Local Government Commission is exercising its authority under Article
43 10 or 11 of Chapter 159 of the General Statutes with respect to the city.

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

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

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

50 (b) The education required by subsection (a) of this section shall incorporate fiscal
51 management and the requirements of Chapter 159 of the General Statutes. The education may be

1 provided by the Local Government Commission, the School of Government at the University of
2 North Carolina, the North Carolina Community College System, the North Carolina League of
3 Municipalities, the North Carolina Association of County Commissioners, or other qualified
4 sources at the choice of the council and upon the prior approval of the Local Government
5 Commission. The city clerk shall maintain a record verifying receipt of the education required
6 under this section and shall provide this information, upon request, to the Secretary of the Local
7 Government Commission."

8 **SECTION 6.(a)** G.S. 153A-82(a)(9) reads as rewritten:

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

- 12 a. The Local Government Commission is exercising its authority under
13 Article 10 or 11 of Chapter 159 of the General Statutes with respect to
14 the county.
15 b. The county has received a ~~unit~~-letter from the Local Government
16 Commission due to a deficiency in complying with Chapter 159 of the
17 General Statutes.

18"

19 **SECTION 6.(b)** G.S. 159-25 reads as rewritten:

20 **"§ 159-25. Duties of finance officer; dual signatures on checks; internal control procedures**
21 **subject to Commission regulation.**

22 ...

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

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

48 **SECTION 6.(c)** G.S. 160A-148(a)(9) reads as rewritten:

49 "(9) The manager shall receive a minimum of six clock hours of education upon
50 the occurrence, or within six months of the occurrence, of any of the
51 following:

- 1 a. The Local Government Commission is exercising its authority under
2 Article 10 or 11 of Chapter 159 of the General Statutes with respect to
3 the city.
4 b. The city has received a ~~unit~~-letter from the Local Government
5 Commission due to a deficiency in complying with Chapter 159 of the
6 General Statutes.

7"

8 **SECTION 7.** Article 11 of Chapter 159 of the General Statutes is amended by adding
9 a new section to read:

10 **"§ 159-183. Personally identifiable information in reports alleging improper governmental**
11 **activities.**

12 (a) Notwithstanding Chapter 132 of the General Statutes, the Commission shall not
13 disclose any personally identifiable information of any person reporting improper governmental
14 activity, whether such is reported under G.S. 147-64.6B or directly to the Commission.

15 (b) For purposes of this section, "personally identifiable information" means the name,
16 place of employment, physical address, email address, and telephone number of the person
17 making a report alleging improper governmental activity."

18 **SECTION 8.(a)** G.S. 159-18 reads as rewritten:

19 **"§ 159-18. Capital reserve funds-accounts.**

20 Any local government or public authority may establish and maintain a capital reserve ~~fund~~
21 ~~account~~ for any purposes for which it may issue bonds. A capital reserve ~~fund-account~~ shall be
22 established by resolution ~~or ordinance~~ of the governing board which shall state (i) the purposes
23 for which the ~~fund-account~~ is created, (ii) the approximate periods of time during which the
24 moneys are to be accumulated for each purpose, (iii) the approximate amounts to be accumulated
25 for each purpose, and (iv) the sources from which moneys for each purpose will be derived. A
26 capital reserve account may be established in the general fund or in any public enterprise fund."

27 **SECTION 8.(b)** G.S. 159-19 reads as rewritten:

28 **"§ 159-19. Amendments.**

29 The resolution ~~or ordinance~~ may be amended from time to time in the same manner in which
30 it was adopted. Amendments may, among other provisions, authorize the use of moneys
31 accumulated or to be accumulated in the ~~fund-account~~ for capital outlay purposes not originally
32 stated."

33 **SECTION 8.(c)** G.S. 159-20 reads as rewritten:

34 **"§ 159-20. Funding capital reserve funds.**

35 ~~Capital reserve funds may be funded by appropriations from any other fund consistent with~~
36 ~~the limitations imposed in G.S. 159-13(b).~~

37 (a) A governing board may make appropriations to a capital reserve account in its annual
38 budget ordinance. When moneys or investment securities, the use of which is restricted by law,
39 come into a capital reserve ~~fund-account~~, the identity of such moneys or investment securities
40 shall be maintained by appropriate accounting entries.

41 (b) Each fiscal year, the budget officer shall include in the information submitted to the
42 governing board with the proposed budget a report of the estimated ending balance for the current
43 fiscal year in each capital reserve account, including the amounts allocated to each purpose
44 identified in the resolution establishing the capital reserve account, and an estimate of the
45 amounts expected to be expended from each capital reserve account during the proposed budget
46 year."

47 **SECTION 8.(d)** G.S. 159-21 reads as rewritten:

48 **"§ 159-21. Investment.**

49 The cash balances, in whole or in part, of capital reserve ~~funds-accounts~~ may be deposited at
50 interest or invested as provided by G.S. 159-30."

51 **SECTION 8.(e)** G.S. 159-22 reads as rewritten:

1 **"§ 159-22. Withdrawals.**

2 Withdrawals from a capital reserve ~~fund-account~~ may be authorized by resolution ~~or~~
3 ~~ordinance~~ of the governing board of the local government or public authority. No withdrawal
4 may be authorized for any purpose not specified in the resolution ~~or ordinance~~ establishing the
5 ~~fund-account~~ or in a resolution ~~or ordinance~~ amending it. The withdrawal resolution ~~or ordinance~~
6 shall authorize an appropriation from the capital reserve ~~fund-account~~ to an appropriate
7 appropriation ~~in one of the funds maintained pursuant to G.S. 159-13(a).~~ within the fund it is
8 associated with, in accordance with the provisions of G.S. 159-13(a). No withdrawal may be
9 made which would result in an appropriation for purposes for which an adequate balance of
10 eligible moneys or investment securities is not then available in the capital reserve ~~fund-account~~."

11 **SECTION 8.(f)** This section becomes effective July 1, 2023, and applies to capital
12 reserve accounts established, modified, or otherwise amended on or after that date. Any capital
13 reserve fund existing on that date shall be deemed a capital reserve account to be amended by
14 resolution of the local government or public authority after that date, regardless of how the capital
15 reserve fund was initially established.

16 **SECTION 9.** Part 3 of Article 3 of Chapter 159 of the General Statutes is amended
17 by adding a new section to read:

18 **"§ 159-38.1. Fund balance reserve accounts.**

19 A local government or public authority may establish and maintain a fund balance reserve
20 account in the general fund or in any public enterprise fund for the purpose of maintaining
21 appropriate cash reserves and an adequate fund balance. All of the following shall apply to a fund
22 balance reserve account:

- 23 (1) The account shall be established by resolution of the governing board. The
24 governing board shall adopt a fund balance policy prior to adopting a
25 resolution establishing a fund balance reserve account.
- 26 (2) The governing board may make appropriations to a fund balance reserve
27 account in its annual budget ordinance. The appropriation to the fund balance
28 reserve account shall not exceed five percent (5%) of the total of all other
29 appropriations for the same fund for which the fund balance reserve account
30 has been established. When moneys or investment securities, the use of which
31 is restricted by law, come into a fund balance reserve account, the identity of
32 such moneys or investment securities shall be maintained by appropriate
33 accounting entries.
- 34 (3) Cash balances, in whole or in part, in fund balance reserve accounts may be
35 deposited at interest or invested as provided in G.S. 159-30.
- 36 (4) Withdrawals from a fund balance reserve account may be authorized by
37 resolution of the governing board of the local government or public authority.
38 The withdrawal resolution shall authorize an appropriation from the fund
39 balance reserve account to an appropriate appropriation within the fund it is
40 associated with, in accordance with the provisions of G.S. 159-13(a). No
41 withdrawal may be made which would result in an appropriation for purposes
42 for which an adequate balance of eligible moneys or investment securities is
43 not then available in the fund balance reserve account.
- 44 (5) Each year, the budget officer shall include in the budget information submitted
45 to the governing board with the proposed budget a report of the estimated
46 ending balance for the current fiscal year in each fund balance reserve account
47 and an estimate of the amounts expected to be expended from each fund
48 balance reserve account during the budget year.
- 49 (6) If restricted funds are appropriated to or held in a fund balance reserve
50 account, those funds shall continue to be restricted to their original purpose
51 and shall be maintained by appropriate accounting entries."

1 **SECTION 10.(a)** G.S. 160A-17.2 reads as rewritten:

2 "**§ 160A-17.2. Security interests in United States Department of Agriculture loans.**

3 (a) ~~A county or municipality may pledge a security interest in an escrow account funded~~
4 ~~with loan proceeds, or a certificate of deposit, to secure repayment of the loan, only if the loan is~~
5 ~~an interest free loan agreement entered into with the United States Department of Agriculture or~~
6 ~~an authorized intermediary acting on behalf of the United States Department of Agriculture. Any~~
7 ~~such escrow account must be substantiated by a written escrow agreement, and the funds must~~
8 ~~be deposited in accordance with G.S. 159-30 and G.S. 159-31. Any certificate of deposit shall~~
9 ~~comply with the requirements of G.S. 159-30.~~

10 (b) An interest-free loan agreement entered into under this section with the United States
11 Department of Agriculture or an authorized intermediary acting on behalf of the United States
12 Department of Agriculture is subject to approval by the Local Government Commission under
13 Article 8 of Chapter 159 of the General Statutes, unless exempted in G.S. 159-148(b).

14 ...

15 (d) To secure payment of a loan under this section, a county or municipality may pledge
16 a security interest only in the collateral being financed by a loan to that specific county or
17 municipality. No county or municipality shall pledge a security interest for repayment of, or be
18 liable for, loans entered into under this section by any other county or municipality."

19 **SECTION 10.(b)** This section is effective when it becomes law and applies to loans
20 made on or after that date.

21 **SECTION 11.** Except as otherwise provided, this act is effective when it becomes
22 law.