The Joint Study Committee on Alcoholic Beverage Control submits to you for your consideration the following report pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Respectfully submitted,

Representative Ray Warren  Senator Don Vaughan
Co-Chair  Co-Chair
COMMITTEE PROCEEDINGS

Below is a brief summary of the Joint Study Committee on Alcoholic Beverage Control's proceedings. A more detailed record of the Committee's work can be found in the Committee's notebook, located in the Legislative Library.

March 9, 2010

The Committee met on Tuesday, March 9, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. Carol Shaw, Principal Program Evaluator, Program Evaluation Division, presented her report entitled, "North Carolina's Alcoholic Beverage Control System Is Outdated and Needs Modernization" and answered questions from the Committee.

March 24, 2010

The Committee met on Wednesday, March 24, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee first heard from Jon Williams, Chairman, North Carolina Alcoholic Beverage Control Commission, who presented information on the history and purpose of the ABC system and addressed issues of accountability and efficiency within the system. Next, Jon Carr, Legislative Counsel for the North Carolina Association of ABC Boards, presented the Association's perspective on the ABC system. The meeting was then opened up for public comment.

April 8, 2010

The Committee met on Thursday, April 8, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee first heard from those who wished to make public comments. Next, Mikael Gross, Committee Co-Counsel, provided an overview of draft legislation for consideration by the Committee. The meeting was then opened up for committee discussion.

April 22, 2010

The Committee met on Thursday, April 22, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Chair recognized Mary Shuping, Education Officer, State Ethics Commission, to present information on the State Government Ethics Act. Next, Eileen R. Youens, Assistant Professor of Public Law and Government, School of Government, University of North Carolina at Chapel Hill, gave a presentation on ethics laws that apply to local ABC boards. The Committee then heard from Mikael Gross, Committee Co-Counsel, who explained the draft legislation, and the meeting was then opened up for committee discussion.
May 5, 2010

The Committee met on Wednesday, May 5, 2010 in Room 643 of the Legislative Office Building at 2:00 p.m. The Committee discussed changes to the draft legislation. The Committee also discussed proposed recommendations and approved a final report.
RECOMMENDATIONS

The Joint Study Committee on Alcoholic Beverage Control heard significant testimony and had extensive discussion all aspects of the current State and local structure of Alcoholic Beverage Control (ABC) in North Carolina, and makes the following recommendations.

Recommendation 1: To provide for statewide consistency and uniformity in ABC structures, rules, and ethics standards, the committee recommends that the General Assembly enact:

AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE ON ALCOHOLIC BEVERAGE CONTROL.

RECOMMENDATION 2: The Committee recommends that the Speaker of the House of Representatives and the President Pro Tempore of the Senate reestablish the Joint Study Committee on Alcoholic Beverages for the 2010-2011 interim, and that the Committee continue to review aspects of the State's Alcoholic Beverage Control System.
COMMITTEE AUTHORIZATION

Section 1. The Joint Study Committee on Alcoholic Beverage Control (hereinafter "Committee") is established by the President Pro Tempore of the Senate and the Speaker of the House of Representatives pursuant to G.S. 120-19.6(a1), Rule 31 of the Rules of the Senate of the 2009 General Assembly, and Rule 26(a) of the Rules of the House of Representatives of the 2009 General Assembly.

Section 2. The Committee consists of 28 members, 14 of whom are appointed by the President Pro Tempore of the Senate and 14 of whom are appointed by the Speaker of the House of Representatives. The President Pro Tempore of the Senate shall appoint eight members of the Senate, and six public members. The Speaker of the House of Representatives shall appoint eight members of the House of Representatives, and six public members.

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<th>President Pro Tempore Appointments</th>
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<td>Senator Don Vaughan, Chair</td>
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<td>Senator Charlie Albertson</td>
<td>Representative Larry M. Bell</td>
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<td>Chief Tim Adams, Gaston County</td>
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<td>Edward Cook, Mecklenburg County</td>
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<td>Howard Hunter, III, Hertford County</td>
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<td>Fields Scarborough, Dare County</td>
<td>Peggy Richmond, Orange County</td>
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The President Pro Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a co-chair, who shall be a member of the General Assembly, from among their respective appointees. A co-chair or other member of the Committee continues to serve until a successor is appointed. A vacancy shall be filled within 30 days by the officer who made the original appointment. Members serve at the pleasure of the appointing officer.

Section 3. The Committee shall study all aspects of the current State and local structure of alcoholic beverage control (ABC) in North Carolina, including:

1. Analyzing the December 2008 report of the North Carolina General Assembly Program Evaluation Division on the effectiveness of the ABC system, and its recommended improvement options for the system.
2. Evaluating the need for Statewide consistency and uniformity in ABC structures, rules, and ethics standards.
(3) Examining the current compensation structure for both State and local ABC board members and employees and making recommendations for any salary limitations or oversight that might be needed.

(4) Examining the governance structure of local ABC boards, the geographical proximity of local ABC boards, and making recommendations for any changes or reforms.

(5) Examining the amount and distribution of revenues from the current ABC system.

(6) Examining what ethics rules are currently applicable to ABC Board members and employees, and making recommendations for any ethics rules that should be applied.

(7) Examining the oversight and accountability of ABC boards, and making recommendations for any increase in oversight or procedures in order to increase accountability.

(8) Examining whether additional gubernatorial authority over ABC Boards and employees, including the power to remove employees, should be granted.

(9) Examining the issue of privatization of the ABC system, and making recommendations as to the advisability of privatization and any potential savings to the State.

(10) Any other issues related to alcoholic beverage control structure, governance, and revenue in the State.

Section 4. The Committee shall meet upon the call of its House and Senate co-chairs. A quorum of the Committee is a majority of its members. No action may be taken except by a majority vote at a meeting at which a quorum is present.

Section 5. The Committee, while in the discharge of its official duties, may exercise all powers provided for under G.S. 120-19 and Article 5A of Chapter 120 of the General Statutes. The Committee may contract for professional, clerical, or consultant services, as provided by G.S. 120-32.02.

Section 6. Members of the Committee shall receive per diem, subsistence, and travel allowance as provided in G.S. 120-3.1, 138-5 and 138-6, as appropriate.

Section 7. The expenses of the Committee shall be considered expenses incurred for the joint operation of the General Assembly. Individual expenses of five thousand dollars ($5,000) or less, including per diem, travel, and subsistence expenses of members of the Committee, and clerical expenses shall be paid upon the authorization of a co-chair of the Committee. Individual expenses in excess of five thousand dollars ($5,000) shall be paid upon the written approval of the President Pro Tempore of the Senate and the Speaker of the House of Representatives. All expenses of the Committee shall be paid from the Legislative Services Commission's Reserve for Studies.

Section 8. The Legislative Services Officer shall assign professional and clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the House of
Representatives and the Director of Legislative Assistants of the Senate shall assign clerical support staff to the Committee.

**Section 9.** The Committee shall not meet during a regular or extra session of the General Assembly. The Committee may meet at various locations around the State in order to promote greater public participation in its deliberations.

**Section 10.** The Committee shall submit a final report on the results of its study, including any proposed legislation, to the members of the Senate and the House of Representatives, on or before May 12, 2010, by filing a copy of the report with the Office of the President Pro Tempore of the Senate, the Office of the Speaker of the House of Representatives, and the Legislative Library. The Committee shall terminate on May 12, 2010, or upon the filing of its final report, whichever occurs first.

Effective this 16th day of February, 2010.

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Joint Study Committee on Alcoholic Beverage Control
A BILL TO BE ENTITLED
AN ACT TO MODERNIZE THE NORTH CAROLINA ALCOHOLIC BEVERAGE
CONTROL SYSTEM, AS RECOMMENDED BY THE JOINT STUDY COMMITTEE
ON ALCOHOLIC BEVERAGE CONTROL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 18B-101 reads as rewritten:


As used in this Chapter, unless the context requires otherwise:

…

(6f) "Finance officer" means the local board employee, other than a general
manager, that is responsible for keeping the accounts of the local board,
receiving and depositing receipts, disbursing funds, and any other duties
assigned by the local board or Commission.

(7) "Fortified wine" means any wine, of more than sixteen percent (16%) and no
more than twenty-four percent (24%) alcohol by volume, made by
fermentation from grapes, fruits, berries, rice, or honey; or by the addition of
pure cane, beet, or dextrose sugar; or by the addition of pure brandy from the
same type of grape, fruit, berry, rice, or honey that is contained in the base
wine and produced in accordance with the regulations of the United States.

(7d) "General manager" means 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. The board may designate only
one employee to be the general manager.

(7a)(7g) "Historic ABC establishment" means a restaurant or hotel that meets all
of the following requirements:

a. Is on the national register of historic places or located within a State
historic district.

b. Is a property designed to attract local, State, national, and
international tourists located on a State Route (SR) and with a
property line located within 1.5 miles of the intersection of a
designated North Carolina scenic byway as defined in
G.S. 136-18(31).
c. Is located within 15 miles of a national scenic highway.

d. Is located in a county in which the on-premises sale of malt beverages or unfortified wine is authorized in two or more cities in the county.

(7b)(7k) "Keg" means a portable container designed to hold and dispense 7.75 gallons or more of malt beverage.

..."

SECTION 2. G.S. 18B-203(a) is amended by adding a new subdivision to read:


(a) Powers. – The Commission shall have authority to:

..."

(20) Promulgate rules to establish performance standards for local boards. Performance standards established pursuant to this subdivision shall include, but not be limited to, standards that address enforcement of ABC laws, store appearance, operating efficiency, and customer service.

(21) Promulgate rules to establish mandatory training requirements for local board members, managers, and employees."

SECTION 3. G.S. 18B-501 reads as rewritten:

"§ 18B-501. Local ABC officers.

(a) Appointment. – Except as provided in subsection (f), each local board shall hire one or more ABC enforcement officers. Local ABC enforcement officers shall be designated as "ABC Officers". The local board may designate one officer as the chief ABC officer for that board.

(b) Subject Matter Jurisdiction. – After taking the oath prescribed for a peace officer, a local ABC officer may arrest and take other investigatory and enforcement actions for any criminal offense; however, the primary responsibility of a local ABC officer is enforcement of the ABC laws and Article 5 of Chapter 90 (The Controlled Substances Act).

(c) Territorial Jurisdiction. – A local ABC officer has jurisdiction anywhere in the county in which he is employed except that a city ABC officer's territorial jurisdiction is subject to any limitation included in any local act governing that city ABC system. A local ABC officer may pursue outside his normal territorial jurisdiction anyone who commits an offense within that jurisdiction, as provided in G.S. 15A-402(d).

(d) Assisting Other Local Agencies. – The local ABC officers employed by a local board shall constitute a "law-enforcement agency" for purposes of G.S. 160A-288, and a local board shall have the same authority as a city or county governing body to approve cooperation between law-enforcement agencies under that section.

(e) Assisting State and Federal Enforcement. – A local ABC officer may assist State and federal law-enforcement agencies in the investigation of criminal offenses in North Carolina, under the following conditions:

(1) The local board employing the officer has adopted a resolution approving such assistance and stating the conditions under which it may be provided;

(2) The State or federal agency has made a written request for assistance from that local board, either for a particular investigation or for any investigation that might require assistance within a certain period of time;

(3) The local ABC officer is supervised by someone in the requesting agency; and
(4) As soon as practical after the assistance begins, an acknowledgement of the action is placed in the records of the local board.

A local ABC officer shall have territorial jurisdiction throughout North Carolina while assisting a State or federal agency under this section. While providing that assistance the officer shall continue to be considered an employee of the local board for purposes of salary, worker's compensation, and other benefits, unless a different arrangement is negotiated between the local board and the requesting agency.

(f) Contracts with Other Agencies. – Instead of, or in addition to, hiring local ABC officers, a local board may contract to pay its enforcement funds to with a sheriff's department, city police department, or other local law-enforcement agency for enforcement of the ABC laws within the law-enforcement agency's territorial jurisdiction. Enforcement agreements may be made with more than one agency at the same time. When such a contract for enforcement exists, the officers of the contracting law-enforcement agency who have been designated by the agency head shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that local board would have once the designated officers of the contracting law enforcement agency have been certified by the chief ABC officer as having been trained. In order to be certified, the designated officers shall receive the same training in the enforcement of ABC laws as is provided to local ABC officers. If a city located in two or more counties approves the sale of some type of alcoholic beverage pursuant to the provisions of G.S. 18B-600(e4), and there are no local ABC boards established in the city and one of the counties in which the city is located, the local ABC board of any county in which the city is located may enter into an enforcement agreement with the city's police department for enforcement of the ABC laws within the entire city, including that portion of the city located in the county of the ABC board entering into the enforcement agreement.

(f1) ABC Enforcement in Absence of Contract. – In those cities and counties in which no contract exists between the local board and a local law enforcement agency for enforcement of ABC laws, officers of a local law enforcement agency shall have the same authority to inspect under G.S. 18B-502 that an ABC officer employed by that board would have, provided:

(1) The local law enforcement agency head or sheriff has designated one or more officers of the agency to conduct inspections under G.S. 18B-502.

(2) The designated officers of the law enforcement agency have been certified by the chief ABC officer as having been trained.

(3) The designated officers have received the same training in the enforcement of ABC laws as that provided to local ABC officers.

(f2) Accountability; Enforcement Reports. – To ensure accountability to the appointing authority and the Commission, every local board's ABC officers and those law enforcement agencies subject to an enforcement agreement entered into pursuant to subsection (f) of this section shall report to the local board, by the fifth business day of each month, on a form developed by the Commission, the following:

(1) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at ABC permitted outlets.

(2) The number of arrests made for ABC law, Controlled Substance Act, or other violations, by category, at other locations.

(3) The number of agencies assisted with ABC law or controlled substance related matters.

(4) The number of alcohol education and responsible server programs presented.
The local board shall submit a copy of the enforcement report to the appointing authority and the Commission not later than five business days after receipt of the enforcement report by the local board. The Commission shall publish this information, by local board and enforcement agency, on a public Internet Web site maintained by the Commission.

(g) Discharge. – Local ABC officers and officers of agencies which contract with local boards for enforcement of the ABC laws are subject to the discharge provisions of G.S. 18B-202."

SECTION 4. G.S. 18B-600(e) reads as rewritten:
"(e) City Mixed Beverage Elections. – A city may hold a mixed beverage election only if:

(1) The city has at least 500 registered voters; and
(2) Either:
  a. The city already operates a city ABC store; or
  b. A city ABC store election is to be held at the same time as the mixed beverage election; or
  c. The city does not operate a city ABC store but:
     1. The county operates an ABC store;
     2. The county has already held a mixed beverage election; and
     3. The vote in the last county election was against the sale of mixed beverages."

SECTION 5. G.S. 18B-700 is amended by adding a new subsection to read:
"(a1) Mission. – The mission of local ABC boards and their employees shall be to responsibly serve their localities by controlling the sale of spirituous liquor and promoting customer-friendly, modern, and efficient stores."

SECTION 6. G.S. 18B-700(g) reads as rewritten:
"(g) Salary. Compensation of Board Members. – A local board member may be compensated as determined by the appointing authority. shall receive compensation in an amount not to exceed $150 per board meeting unless a different level of monetary compensation is approved by the appointing authority. If a different level is approved by the appointing authority, the appointing authority shall notify the Commission of the approved level of compensation in writing. No local board member shall receive any non-monetary compensation or benefits unless specifically authorized by this section."

SECTION 7. G.S. 18B-700 is amended by adding a new subsection to read:
"(g1) Compensation of General Managers of Local Boards. – The salary authorized for the general manager of a local board shall not exceed the salary authorized by the General Assembly for the clerk of superior court of the county in which the appointing authority was originally incorporated unless such compensation is otherwise approved by the appointing authority. The local board shall provide the appointing authority's written confirmation of such approval to the Commission. The general manager of a local board may receive any other benefits to which all employees of the local board are entitled. The salary authorized for other employees of a local board may not exceed that of the general manager."

SECTION 8. G.S. 18B-700 is amended by adding a new subsection to read:
"(g2) Travel allowance and per diem rates. – Approved travel on official business by the members and employees of local boards shall be reimbursed pursuant to G.S. 138-6 unless the local board adopts a travel policy that conforms to the travel policy of the appointing authority.
and such policy is approved by the appointing authority. The local board shall provide the
appointing authority's written confirmation of such approval to the Commission."

SECTION 9. G.S. 18B-700(i) reads as rewritten:
"(i) Bond. – Each local board member and the employees designated as the general
manager or finance officer of the local board shall be bonded in an amount not less than five
thousand dollars ($5,000), one hundred thousand dollars ($100,000) secured by a corporate
surety, for the faithful performance of his duties. A public employees' blanket position bond in
the required amount satisfies the requirements of this subsection. The bond shall be payable to
the local board and shall be approved by the appointing authority for the local board. The
appointing authority may exempt from this bond requirement any board member who does not
handle board funds, and it may also increase the amount of the bond required for any member
or employee who does handle board funds."

SECTION 10. G.S. 18B-700 is amended by adding a new subsection to read:
"(k) Nepotism. – Members of an immediate family shall not be employed within the
local board if such employment will result in one member of the immediate family supervising
another member of the immediate family, or if one member of the immediate family will
occupy a position which has influence over another member's employment, promotion, salary
administration, or other related management or personnel considerations. This subsection
applies to local board members and employees.

For the purpose of this subsection, the term immediate family includes wife, husband,
mother, father, brother, sister, son, daughter, grandmother, grandfather, grandson and
granddaughter. Also included are the step-, half- and in-law relationships. It also includes other
people living in the same household, who share a relationship comparable to immediate family
members, if either occupies a position which requires influence over the other's employment,
promotion, salary administration, or other related management or personnel considerations."

SECTION 11. G.S. 18B-700 is amended by adding a new subsection to read:
"(l) Local Acts. – Notwithstanding the provisions of any local act, this section applies to
all local boards."

SECTION 12. G.S. 18B-701 reads as rewritten:
"§ 18B-701. Powers and duties of local ABC boards.
(a) Powers. – A local board shall have authority to:
(1) Buy, sell, transport, and possess alcoholic beverages as necessary for the
operation of its ABC stores;
(2) Adopt rules for its ABC system, subject to the approval of the Commission;
(3) Hire and fire employees for the ABC system;
(4) Designate one employee as manager of the ABC system and determine his
responsibilities;
(5) Require bonds of employees as provided in the rules of the Commission;
(6) Operate ABC stores as provided in Article 8;
(7) Issue purchase-transportation permits as provided in Article 4;
(8) Employ local ABC officers or make other provision for enforcement of ABC
laws as provided in Article 5;
(9) Borrow money as provided in G.S. 18B-702;
(10) Buy and lease real and personal property, and receive property bequeathed
or given, as necessary for the operation of the ABC system;
(11) Invest surplus funds as provided in G.S. 18B-702;
(12) Dispose of property in the same manner as a city council may under Article 12 of Chapter 160A of the General Statutes; and

(13) Perform any other activity authorized or required by the ABC law.

(b) Duties. – A local board shall have the duty to comply with all rules adopted by the Commission pursuant to 18B and meet all standards for performance and training established by the Commission pursuant to G.S. 18B-203(a)(20) and (21). Failure to comply with Commission rules shall be cause for removal.

SECTION 13. G.S. 18B-702 reads as rewritten:

"§ 18B-702. Financial operations of local boards.

(a) Generally. – A local board may transact business as a corporate body, except as limited by this section. A local board shall not be considered a public authority under G.S. 159-7(b)(10).

(b) Budget Officer. – The general manager of the local board shall be the budget officer for the local board. In the absence of a general manager, a local board may impose the duties of budget officer on the chairman or any member of the local board or any other employee of the board.

(c) Annual Balanced Budget. – Each local board shall operate under an annual balanced budget administered in accordance with this section. A budget is balanced when the sum of estimated gross revenues and both restricted and unrestricted funds are equal to appropriations. Expenditures shall not exceed the amount of funds received or in reserve for the purpose to which the funds are appropriated. It is the intent of this section that all monies received and expended by a local board should be included in the budget. Therefore, notwithstanding any other provision of law, no local board may expend any monies, regardless of their source except in accordance with a budget adopted under this section. The budget of a local board shall cover a fiscal year beginning July 1 and ending June 30.

(d) Preparation and Submission of Budget and Budget Message. – Upon receipt of the budget requests and revenue estimates and the financial information supplied by the finance officer, the budget officer shall prepare a budget for consideration by the local board in such form and detail as may have been prescribed by the budget officer or the local board. The budget, together with a budget message, shall be submitted to the local board, the appointing authority, and the Commission not later than June 1. The budget and budget message should, but need not, be submitted at a formal meeting of the board. The budget message should contain a concise explanation of the goals fixed by the budget for the budget year, should explain important features of the activities anticipated in the budget, should set forth the reasons for stated changes from the previous year in appropriation levels and should explain any major changes in fiscal policy.

(e) Filing and publication of the budget. – On the same day the budget officer submits the budget to the local board, the budget officer shall make a copy for public inspection and it shall remain available for public inspection until the budget is adopted. The budget officer shall make a copy of the budget available to all news media in the county. The budget officer shall also publish a statement that the budget has been submitted to the local board, and is available for public inspection in the office of the general manager of the local board. The statement shall also give notice of the time and place of the budget hearing required by subsection (f) of this section.

(f) Budget hearings. – Before adopting the budget, the board shall hold a public hearing at which time any persons who wish to be heard on the budget may appear.
Adopting of Budget. – Not earlier than 10 days after the day the budget is presented to the board and not later than July 1, the local board shall adopt a budget making appropriations for the budget year in such sums as the board may consider sufficient and proper, whether greater or less than the sums recommended in the budget. The budget shall authorize all financial transactions of the local board. The budget may be in any form that the board considers most efficient in enabling it to make the fiscal policy decisions embodied therein, but it shall make appropriations by department, function, or project and show revenues by major source. The following directions and limitations shall bind the local board in adopting the budget:

1. The full amount estimated by the finance officer to be required for debt service during the budget year shall be appropriated.
2. The full amount of any deficit in each fund shall be appropriated.
3. Working capital funds set aside pursuant to G.S. 18B-805 shall be no less than two weeks' average gross sales of the latest fiscal year or greater than two months' average gross sales of the latest fiscal year. "Working Capital" means the total of cash, investments, and inventory less all unsecured liabilities. Gross sales means gross receipts from the sale of alcoholic beverages less distributions as defined in G.S. 18B-805(b)(2), (3), (4) and (5). Any expenditure to be charged against working capital funds shall be authorized by resolution of the local board, which resolution shall be deemed an amendment to the budget setting up an appropriation for the object of expenditure authorized. The local board may authorize the budget officer to authorize expenditures from working capital funds subject to such limitations and procedures as it may prescribe. Any such expenditure shall be deemed an amendment and reported to the board at its next regular meeting and recorded in the minutes.
4. Estimated revenues shall include only those revenues reasonably expected to be realized in the budget year.
5. Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated unless such contract reserves to the local board the right to limit or not to make such appropriation.
6. The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund. Appropriated fund balance in a fund shall not exceed the sum of cash and investments minus the sum of liabilities, encumbrances, and deferred revenues arising from cash receipts, as those figures stand at the close of the fiscal year next preceding the budget year.

The budget shall be entered in the minutes of the local board and within five days after adoption and copies thereof shall be filed with the finance officer, the budget officer, the appointing authority, and the Commission.

Amendments to the Budget. – Except as otherwise restricted by law, the local board may amend the budget at any time after adoption, in any manner, so long as the budget, as amended, continues to satisfy the requirements of this section. The local board by appropriate resolution may authorize the budget officer to transfer monies from one appropriation to another within the same fund subject to such limitations and procedures as it may prescribe.
Any such transfers shall be reported to the local board at its next regular meeting and shall be
entered in the minutes. Amendments to the adopted budget shall also be provided to the
appointing authority and the Commission.

(i) Interim Budget. – In case the adoption of the budget is delayed until after July 1, the
local board shall make interim appropriations for the purpose of paying salaries, debt service
payments, and the usual ordinary expenses of the local board for the interval between the
beginning of the budget year and the adoption of the budget. Interim appropriations so made
shall be charged to the proper appropriations in the adopted budget.

(j) Finance Officer. – The local board shall designate an employee of the board, other
than the general manager, to be the finance officer for the local board. The Commission, for
good cause shown, may allow the general manager of a board to also be the finance officer.

(k) Duties and Powers of the Finance Officer. – The finance officer for a local board
shall:

(1) Keep the accounts of the local board in accordance with generally accepted
principles of governmental accounting and the rules and regulations of the
Commission.

(2) Disburse all funds of the local board in strict compliance with this Chapter,
the budget, and preaudit obligations and disbursements as required by this
section.

(3) As often as may be requested by the local board or the general manager,
prepare and file with the board a statement of the financial condition of the
local board.

(4) Receive and deposit all monies accruing to the local board, or supervise the
receipt and deposit of money by other duly authorized employees.

(5) Maintain all records concerning the debt and other obligations of the local
board, determine the amount of money that will be required for debt service
or the payment of other obligations during each fiscal year, and maintain all
funds.

(6) Supervise the investment of idle funds of the local board pursuant to
subsection (t) of this section.

The finance officer shall perform such other duties as may be assigned to him by law, by
the general manager, budget officer, or local board, or by rules and regulations of the
Commission.

(l) Accounting System. – Each local board shall establish and maintain an accounting
system designed to show in detail its assets, liabilities, equities, revenues, and expenditures.
The system shall also be designed to show appropriations and estimated revenues as established
in the budget originally adopted and subsequently amended.

(m) Incurring Obligations. – No obligation may be incurred in a program, function, or
activity accounted for in a fund included in the budget unless the budget includes an
appropriation authorizing the obligation and an unencumbered balance remains in the
appropriation sufficient to pay in the current fiscal year the sums obligated by the transaction
for the current fiscal year. No obligation may be incurred for a capital project unless the budget
authorizing the obligation and an unencumbered balance remains in the appropriation sufficient
to pay the sums obligated by the transaction. If an obligation is evidenced by a contract or
agreement requiring the payment of money or by a purchase order for supplies and materials,
the contract, agreement, or purchase order shall include on its face a certificate stating that the
instrument has been preaudited to assure compliance with this subsection. The certificate, which shall be signed by the finance officer or any deputy finance officer approved for this purpose by the local board, shall take substantially the following form:

"This instrument has been preaudited in the manner required by G.S. 18B-702. _______________________________
(Signature of finance officer)."

An obligation incurred in violation of this subsection is invalid and may not be enforced.

The finance officer shall establish procedures to assure compliance with this subsection.

(n) Disbursements. – When a bill, invoice, or other claim against a local board is presented, the finance officer shall either approve or disapprove the necessary disbursement. If the claim involves a program, function, or activity accounted for in a fund included in the budget or a capital project or a grant project authorized by the budget, the finance officer may approve the claim only if

1. He determines the amount to be payable; and
2. The budget includes an appropriation authorizing the expenditure and either (i) an encumbrance has been previously created for the transaction or (ii) an unencumbered balance remains in the appropriation sufficient to pay the amount to be disbursed.

A bill, invoice, or other claim may not be paid unless it has been approved by the finance officer or, under subsection (o) of this section, by the local board. The finance officer shall establish procedures to assure compliance with this subsection.

(o) Local Board Approval of Bills, Invoices, or Claims. – The local board may, as permitted by this subsection, approve a bill, invoice, or other claim against the local board that has been disapproved by the finance officer. It may not approve a claim for which no appropriation appears in the budget, or for which the appropriation contains no encumbrance and the unencumbered balance is less than the amount to be paid. The local board shall approve payment by formal resolution stating the board's reasons for allowing the bill, invoice, or other claim. The resolution shall be entered in the minutes together with the names of those voting in the affirmative. The chairman of the board or some other member designated for this purpose shall sign the certificate on the check or draft given in payment of the bill, invoice, or other claim. If payment results in a violation of law, each member of the board voting to allow payment is jointly and severally liable for the full amount of the check or draft given in payment.

(p) Checks or Drafts signed by Finance Officer. – Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer or a properly designated deputy finance officer. The chairman of the local board or general manager of the local board shall countersign these checks and drafts. The Commission may waive the requirements of this subsection if the board determines that the internal control procedures of the unit or authority will be satisfactory in the absence of dual signatures.

(q) Payment of a Bill, Invoice, Salary or Claim. – A local board may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository. Except as provided in this subsection each check or draft on an official depository shall bear on its face a certificate signed by the finance officer or a deputy finance officer approved for this purpose by the local board (or signed by the chairman or some other member of the board pursuant to subsection (c) of this section). The certificate shall take substantially the following form:
"This disbursement has been approved in the manner required by G.S. 18B-702"

_________________________________

(Signature of finance officer).

No certificate is required on payroll checks or drafts on an imprest account in an official depository, if the check or draft depositing the funds in the imprest account carried a signed certificate. No certificate is required for expenditures of fifty dollars ($50.00) or less from a petty cash fund provided the expenditure is accounted for by a receipt for the expended item.

(b)(r) Borrowing Money. – A local board may borrow money only for the purchase of land, buildings, equipment and stock needed for the operation of its ABC system. A local board may pledge a security interest in any real or personal property it owns other than alcoholic beverages. A city or county whose governing body appoints a local board shall not in any way be held responsible for the debts of that board.

(e)(s) Audits. – A local board shall submit to the appointing authority and Commission an annual independent audit of its operations, performed in accordance with generally accepted accounting standards and in compliance with a chart of accounts prescribed by the Commission. The audit report shall contain a summary of the requirements of this Chapter, or of any local act applicable to that local board, concerning the distribution of profits of that board and a description of how those distributions have been made, including the names of recipients of the profits and the activities for which the funds were distributed. A local board shall also submit to any other audits and submit any reports demanded by the appointing authority or the Commission.

(d)(t) Deposits and Investments. – A local board may deposit money at interest in any bank or trust company in this State in the form of savings accounts or certificates of deposit. Investment deposits shall be secured as provided in G.S. 159-31(b) and the reports required by G.S. 159-33 shall be submitted. A local board may invest all or part of the cash balance of any fund as provided in G.S. 159-30(c) and (d), and may deposit any portion of those funds for investment with the State Treasurer in the same manner as State boards and commissions under G.S. 147-69.3.

(e)(u) Compliance with Commission Rules. – The Commission shall adopt, and each local board shall comply with, fiscal control rules concerning the borrowing of money, maintenance of working capital, investments, appointment of a budget officer, appointment of a financial officer, daily deposit of funds, bonding of employees, auditing of operations, and the schedule, manner and other procedures for distribution of profits. The Commission may also adopt any other rules concerning the financial operations of local boards which are needed to assure the proper accountability of public funds. The Commission may vary these rules and regulations according to any other criteria reasonably related to the purpose or complexity of the financial operations involved. The Commission has the authority to inquire into and investigate the internal control procedures of a local board, and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements or mishandling of public monies.

(v) Penalties. – If a board member or employee of a local board incurs an obligation or pays out or causes to be paid out any funds in violation of this section, he and the sureties on his official bond are liable for any sums so committed or disbursed. If the finance officer or any properly designated deputy finance officer gives a false certificate to any contract, agreement, purchase order, check, draft, or other document, he and the sureties on his official bond are liable for any sums illegally committed or disbursed thereby.
Applicability of Criminal Statutes. – The provisions of G.S. 14-90 and G.S. 14-254 shall apply to any person appointed to or employed by a local board, and any person convicted of a violation of G.S. 14-90 or G.S. 14-254 shall be punished as a Class H felon.

Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards.

SECTION 14. Chapter 18B of the General Statutes is amended by adding a new section to read:

§ 18B-704. Removal of local board members and employees.

(a) Improper Influence. – Neither the Commission nor its individual members shall attempt to coerce any appointing authority to appoint a particular person as a member of a local board or attempt to coerce a local board to employ any particular applicant.

(b) Purpose. – This section is intended to provide a uniform system of removal for appointing authorities and the Commission.

(c) Cause for Removal. – Disqualification of a local board member or employee under the law, a violation of the ABC laws, failure to complete training required by this Chapter or the Commission, or engaging in any conduct constituting moral turpitude or which brings the local board or the ABC system into disrepute is cause for the Commission to remove any member or employee of a local board. The employment or retention of any employee who is known to be disqualified under the law to hold a position with a local board is cause for the Commission to remove the board members involved.

(d) Removal Process. – The Commission or appointing authority shall provide, in writing, to the local board member or employee the findings of fact upon which the decision for removal is based. The Commission or appointing authority shall also provide the local board member or employee with notice of the availability of a hearing before the Commission to review the removal.

(e) Removal Hearing. – Any local board member or employee removed from office or discharged by the Commission or the appointing authority may request a hearing before the Commission. Such a request operates to stay the action of the Commission or the appointing authority with regard to the matter until after the hearing, unless the Commission finds that the public interest requires immediate action. At the hearing, the employee or his counsel may examine all evidence used against him and present evidence in his own behalf. A removal hearing is not subject to the provisions of Chapter 150B of the General Statutes. All hearings shall be conducted informally and in such manner as to preserve the substantial rights of the parties.

(f) Hearing Procedure. – The Commission shall hold the hearing required by subsection (d) of this section within 15 days of the member's or employee's request for a hearing. The standard of review by the Commission is de novo. The Commission or appointing authority shall be represented by a Commission Hearing Officer. The Commission shall discharge the member or employee if two-thirds of the Commission's members vote for removal. The Commission shall make findings of fact. The Commission may adopt the findings of fact of the Commission or the appointing authority, may add new findings of fact to the original findings of fact, or may substitute new findings of fact for the original findings of fact. The Commission shall make conclusions of law and shall issue a written decision to the member or employee of the local board, and to the appointing authority, within 15 days of the hearing.

(g) Commission Authority. – The Commission shall have the sole power, in its discretion, to determine if cause exists for removal of a local board member or employee who
has requested a hearing before the Commission. The Commission's decision in a removal hearing is final.

(h) Appeal. – A local board member or employee may appeal the Commission's final decision to the Court of Appeals. The standard of review shall be abuse of discretion. The sole remedy for a local board member or employee shall be the reinstatement of the board member or employee to the local board with back-pay. All awards for back-pay shall be paid by the local board from which the board member or employee was removed.

(i) Removal Hearing not a Substitute for Termination of Employee. – Nothing in this section replaces or is intended to replace a local board's policy regarding the termination of an employee for personnel reasons. The removal process under this section is reserved solely for the appointing authority or the Commission to remove a board member or employee for cause.

Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards.

SECTION 15. Chapter 18B of the General Statutes is amended by adding a new section to read:

"§ 18B-705. Compliance with performance standards; remedies.

(a) Local Board Compliance. – The Commission shall establish performance standards pursuant to G.S. 18B-203(a)(20). The Commission shall ensure that all local boards comply with established performance standards by conducting regular or special audits, conducting performance evaluations, monitoring ABC law enforcement efforts, or taking other measures which may include inspections by Commission auditors or alcohol law-enforcement agents.

(b) Performance Improvement Plans. – The Commission, upon determining that a local board is failing to meet performance standards established pursuant to G.S. 18B-203(a)(20), shall meet with the chair of the local board and the appointing authority and issue a statement of findings. The appointing authority, in consultation with the Commission, shall develop for and deliver a performance improvement plan to the local board within 30 days of the meeting with the Commission. The performance improvement plan shall include, but not be limited to, recommendations for improved performance based on the performance standards established by the Commission. The plan shall also state a period of time in which the performance improvements are to occur and what action will be taken by the Commission if performance standards are not met within the given time limits. The appointing authority shall allow up to, but no more than, six months’ time to the local board to implement and show improvement under the performance improvement plan. The local appointing authority, in consultation with the Commission and upon good cause shown, may allow up to an additional six-month period of time for the local board to meet all requirements in the performance improvement plan and to establish that the performance standards established by the Commission are met.

(c) Remedies. – If the Commission determines that the local board has not implemented the recommendations for improved performance in a timely manner and the local board is not meeting the performance standards or is failing to make all distributions required by G.S. 18B-805(b), the Commission shall notify the local board and the appointing authority and may make additional recommendations to the local board and appointing authority including closing a store or stores, relocating store locations, merging the local board with another local board, or entering into an agreement for joint store operations, or abolishing the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."
SECTION 16. Chapter 18B of the General Statutes is amended by adding a new section to read:

§ 18B-706. Ethics requirements for local boards.

(a) Each local board shall adopt a policy containing a code of ethics to guide actions by the board members and employees of the ABC board in the performance of their official duties. The policy shall address at least all of the following:

1. The need to obey all applicable laws regarding official actions taken as a board member or employee.
2. The need to uphold the integrity and independence of the board member or employee's position.
3. The need to avoid impropriety in the exercise of official duties.
4. The need to faithfully perform the duties of the position.
5. The need to conduct the affairs of the board in an open and public manner, including complying with all applicable laws governing open meetings and public records.

(b) Each member of a local board shall receive a minimum of two hours of ethics education within 12 months after initial appointment to the office and again within 12 months after each subsequent appointment to the office. The ethics education shall cover laws and principles that govern conflicts of interest and ethical standards of conduct for local ABC boards. The education may be provided by the Commission or other qualified source approved by the Commission. The local board shall maintain a record verifying receipt of the ethics education by each member of the board. The local board may require appropriate ethics training and education for employees of the local ABC board.

SECTION 17. G.S. 18B-801(b) is amended by adding a new subdivision to read:

"(b) Location of Stores. – A local board may choose the location of the ABC stores within its jurisdiction, subject to the approval of the Commission. In making its decision on a location, the Commission may consider:

1. Whether the health, safety, or general welfare of the community will be adversely affected.
2. Whether the citizens of the community or city in which the proposed store is to be located voted for or against ABC stores in the last election on the question.
3. The proximity of the new location to existing ABC stores operated by the local board or any other boards."

SECTION 18. G.S. 18B-801(d) reads as rewritten:

"(d) Insolvent ABC System. – If an ABC system is insolvent, the local board may apply to the Commission for an order to close the system. Upon receipt of an application, or upon its own motion, the Commission shall investigate the system, and if it finds that further operation of the ABC stores will not be profitable, the system is insolvent, it may order the system closed. If the Commission orders a local system to close, the Commission may:

1. After consultation with the local board, its creditors, and other interested parties, schedule a phase out of the system's business activities;
2. Represent the local board in negotiations with creditors and other interested parties;
3. Require an accounting or auditing of the local system;"
(4) Take possession or arrange for the disposition of any liquor for which the local board has not paid;

(5) Apply to the Superior Court to be appointed as receiver for the local board with all powers and duties of a receiver for a corporation under Article 38 of Chapter 1 of the General Statutes, except that the Commission shall not be required to post the bond required by G.S. 1-504; or

(6) Take any other reasonable steps to promote an orderly closing of the system. In lieu of closing an insolvent system, the commission may, in acting as appointed receiver for the local board, enter into a voluntary agreement to merge the local board with another local board pursuant to G.S. 18B-703, or may enter into a voluntary agreement with one or more local boards to jointly operate one or more stores pursuant to G.S. 18B-703(h)."

SECTION 19. G.S. 18B-803 reads as rewritten:

"§ 18B-803. Store management.

(a) Manager. – A local board shall provide for the management of each store operated by it. The board shall employ at least one manager for each store, who shall operate the store pursuant to the directions of that board.

(b) Bonding of Manager. – Each store manager shall be bonded in an amount not less than five thousand dollars ($5,000), one hundred thousand dollars ($100,000) secured by a corporate surety, for the honest performance of his duties. A public employees' blanket position bond, honesty form, in the required amount satisfies the requirements of this subsection. The bond shall be payable to the local board and shall be approved by the appointing authority for the local board. The appointing authority may increase the amount of bond required for store managers under this subsection.

(c) Bonding of Other Employees. – A local board may require any of its other employees who handle funds to obtain bonds. The amount and form of those bonds shall be determined by the local board.

(d) Local Acts. – Notwithstanding the provisions of any local act, this section applies to all local boards."

SECTION 20. Section 6 of this act becomes effective on January 1, 2011. Sections 8 and 10 of this act become effective October 1, 2010 and applies to general managers and employees hired on or after that date. Section 13 of this act becomes effective May 1, 2011. The remainder of this act becomes effective October 1, 2010.