GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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HOUSE BILL 163
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Short Title: Treasury Administrative Changes.-AB (Public)

Sponsors:

Referred to:

March 1, 2021

A BILL TO BE ENTITLED

AN ACT MAKING CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS RELATING TO THE STATE TREASURER'S INVESTMENT PROGRAMS, THE LOCAL GOVERNMENT COMMISSION, AND REPORTS SUBMITTED TO THE COUNCIL OF STATE.

The General Assembly of North Carolina enacts:

PART I. CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS RELATING TO THE STATE TREASURER'S INVESTMENT PROGRAMS

SECTION 1.(a) G.S. 147-69.3 reads as rewritten:

"**§ 147-69.3. Administration of State Treasurer's investment programs.**

…

(i3) The Treasurer may invest in the countries of Sudan and South Sudan to the extent not prohibited by the United States Government, or to the extent that such investment is part of an index or index replication strategy, a commingled fund, limited partnership, or similar investment vehicle, or a derivative instrument.

…."

SECTION 1.(b) G.S. 147-86.57 reads as rewritten:

"**§ 147-86.57. Definitions.**

As used in this Article:

…

(3) "Investment" means a commitment or contribution of funds or property, whatever the source, a loan or other extension of credit, and the entry into or renewal of a contract for goods or services. It does not include ~~beneficial ownership through~~ index ~~funds,~~ or index replication strategies, commingled funds, limited partnerships, or similar investment vehicles, or derivative ~~instruments, or the like.~~instruments.

…."

SECTION 1.(c) Article 6D of Chapter 147 of the General Statutes is repealed.

PART II. CLARIFYING AND ADMINISTRATIVE CHANGES TO LAWS RELATING TO THE LOCAL GOVERNMENT COMMISSION

SECTION 2. G.S. 143-128.1C reads as rewritten:

"**§ 143-128.1C. Public-private partnership construction contracts.**

…

(b) If the governmental entity determines in writing that it has a critical need for a capital improvement project, the governmental entity may acquire, construct, own, lease as lessor or lessee, and operate or participate in the acquisition, construction, ownership, leasing, and operation of a public-private project, or of specific facilities within such a project, including the making of loans and grants from funds available to the governmental entity for these purposes. If the governmental entity is a public body under Article 33C of this Chapter, the determination shall occur during an open meeting of that public body. The governmental entity may enter into development contracts with private developers with respect to acquiring, constructing, owning, leasing, or operating a project under this section. If the development contract is entered into by a governmental entity that is a unit of local government as defined in G.S. 159-7, and the unit must finance all or part of its portion of the cost of the project, then the amount financed by the unit is subject to approval by the Local Government Commission as provided in Chapter 159 of the General Statutes. Approval must be secured prior to the execution of the development contract. The development contract shall specify the following:

(1) The property interest of the governmental entity and all other participants in the development of the project.

(2) The responsibilities of the governmental entity and all other participants in the development of the project.

(3) The responsibilities of the governmental entity and all other participants with respect to financing of the project.

(4) The responsibilities to put forth a good-faith effort to comply with G.S. 143-128.2, G.S. 143-128.4, and to recruit and select small business entities.

…."

SECTION 3. G.S. 159-28 reads as rewritten:

"**§ 159-28. Budgetary accounting for appropriations.**

…

(a3) Use of Automated System for Preaudit. – An automated financial computer system may be used to meet the requirements of subsection (a1) of this section if an annual certification is filed with the Secretary of the Commission pursuant to subsection (a4) of this section. The provisions of this subsection do not apply to transactions exempted by statute from the preaudit requirement. The automated computer system must have all of the following:

(1) Embedded functionality that determines that there is an appropriation to the department, function code, or project in which the transaction appropriately falls.

(2) Functionality ensuring that unencumbered funds remain in the appropriation to pay out any amounts that are expected to come due during the budgeted period.

(3) Real-time visibility to budget compliance, alert threshold notifications, and rules-based compliance measures and enforcement.

(a4) Annual Certification of Automated Preaudit System. – When an automated financial computer system is used to meet the requirements of subsection (a1) of this section, the finance officer shall certify to the Secretary of the Commission no later than 30 days after the start of the unit's or public authority's fiscal year that the automated financial computer system meets all the requirements of subsection (a3) of this section. The Secretary may reject or revoke the finance officer's certification if the annual audit for the unit's or public authority's immediately preceding fiscal year includes a finding of budgetary noncompliance or if the Secretary determines that the automated financial computer system fails to meet the requirements of subsection (a3) of this section.

…."

SECTION 4.(a) G.S. 159-181 reads as rewritten:

"**§ 159-181. Enforcement of Chapter.**

…

(c) The Local Government Commission shall have authority to impound the books and records of any unit of local government or public authority and assume full control of all its financial affairs (i) when the unit or authority defaults on any debt service payment or, in the opinion of the Commission, will default on a future debt service payment if the financial policies and practices of the unit or authority are not improved, ~~or~~ (ii) when the unit or authority persists, after notice and warning from the Commission, in willfully or negligently failing or refusing to comply with the provisions of this ~~Chapter.~~ Chapter, or (iii) when the General Assembly suspends the charter of a municipality. When the Commission takes action under this section, the Commission is vested with all of the powers of the governing board as to the levy of taxes, expenditure of money, adoption of budgets, and all other financial powers conferred upon the governing board by law. If the unit of local government or public authority failed to submit annual audit reports as required by G.S. 159-34(a), the Commission may waive the audit requirement in G.S. 159-34(a) for any or all of the missing reports provided that the use of all grant funds and borrowed funds is documented to the satisfaction of the grantors and lenders. If the Commission waives the annual audit requirement, the Commission shall consider making a recommendation to the General Assembly or other organizing body for the revocation of the charter or the dissolution of the unit of local government or public authority. This subsection ~~(c)~~ does not apply to contractual obligations undertaken by a unit of local government in a debt instrument issued pursuant to Chapter 159G of the General Statutes unless such debt instrument is secured by a pledge of the faith and credit of the unit of local government.

…."

SECTION 4.(b) The Local Government Commission shall have the authority to impound the books and records and take any other action authorized by G.S. 159-181, as amended by subsection (a) of this section, with respect to the Towns of Eureka and Spencer Mountain, whose charters were suspended in S.L. 2019-29 and S.L. 2016-45, as amended by S.L. 2019-29, respectively.

SECTION 5. G.S. 115C-218.30 reads as rewritten:

"**§ 115C-218.30. Accountability; reporting requirements to State Board of Education.**

(a) The school is subject to the financial audits, the audit procedures, and the audit requirements adopted by the State Board of Education for charter schools. These audit requirements may include the requirements of the School Budget and Fiscal Control Act.The audit requirements shall not include submission to, review of, or approval by, the Local Government Commission for any audit reports, audit contracts, or audit invoices, nor shall they require any other authority, involvement, or oversight by the Local Government Commission with regard to financial reporting, accountability requirements, or procedures.

(b) The school shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.

(c) The school shall report at least annually to the State Board of Education the information required by the State Board."

PART III. CLARIFYING AND ADMINISTRATIVE CHANGES TO A LAW RELATING TO REPORTS SUBMITTED TO THE COUNCIL OF STATE

SECTION 6. G.S. 116-37 reads as rewritten:

"**§ 116-37. University of North Carolina Health Care System.**

…

(i) Property. – The board of directors shall establish rules and regulations for acquiring or disposing of any interest in real property for the use of the University of North Carolina Health Care System. These rules and regulations shall include provisions for development of specifications, advertisement, and negotiations with owners for acquisition by purchase, gift,

lease, or rental, but not by condemnation or exercise of eminent domain, on behalf of the University of North Carolina Health Care System. This section does not authorize the board of directors to encumber real property. The board of directors shall submit all initial policies and regulations adopted pursuant to this subsection to the State Property Office for review upon adoption by the board. Any subsequent changes to these policies and regulations adopted by the board shall be submitted to the State Property Office for review. Any comments by the State Property Office shall be submitted to the Chief Executive Officer and to the President of The University of North Carolina. After review by the Attorney General as to form and after the consummation of any such acquisition, the University of North Carolina Health Care System shall promptly file a report concerning the acquisition or disposition with the ~~Governor and Council of State.~~ Governor. Acquisitions and dispositions of any interest in real property pursuant to this section shall not be subject to the provisions of Article 36 of Chapter 143 of the General Statutes or the provisions of Chapter 146 of the General Statutes.

…."

PART IV. EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.