

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 474  
HOUSE BILL 335

AN ACT TO AMEND CHAPTER 780 OF THE 1971 SESSION LAWS, IN ORDER TO MAKE TECHNICAL AMENDMENTS TO SUBCHAPTERS II AND III OF G.S. CHAPTER 159, AS ENACTED BY CHAPTER 780 AND TO MAKE CORRESPONDING AMENDMENTS TO EXISTING CHAPTERS OF THE GENERAL STATUTES.

The General Assembly of North Carolina enacts:

**Section 1.** Each time G.S. Chapter 159 is amended in this act, the amendment is to Chapter 159 as enacted by Section 1 of Chapter 780 of the 1971 Session Laws and as G.S. Chapter 159 appears in Chapter 780.

**Sec. 2.** G.S. 159-3(a) is rewritten as follows:

"(a) The Local Government Commission consists of nine members. The State Treasurer, the State Auditor, the Secretary of State, and the Commissioner of Revenue each serve ex officio; the remaining five members are appointed to four-year terms as follows: three by the Governor, one by the Lieutenant Governor, and one by the Speaker of the House. Of the three members appointed by the Governor, one shall be or have been the mayor or a member of the governing board of a city and one shall be or have been a member of a county board of commissioners. The State Treasurer is chairman ex officio of the Local Government Commission. Membership on the Commission is an office that may be held concurrently with one other office, as permitted by G.S. 128-1.1."

**Sec. 3.** G.S. 159-7 is amended by changing the title of the section to "Short title; definitions; local acts superseded.", and by adding a new subsection (c) to read as follows:

"(c) It is the intent of the General Assembly by enactment of this article to prescribe for local governments and public authorities a uniform system of budget adoption and administration and fiscal control. To this end and except as otherwise provided in this article, all provisions of general laws, city charters, and local acts in effect as of July 1, 1973 and in conflict with the provisions of part 1 or part 3 of this article are repealed. No general law, city charter, or local act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of part 1 or part 3 of this article unless it expressly so provides by specific reference to the appropriate section."

**Sec. 4.** G.S. 159-7(b) is amended as follows:

(a) Paragraph (1) ("Fiscal year") is rewritten as follows:

"(1) 'Fiscal year' is the annual period for the compilation of fiscal operations, as prescribed in G.S. 1598(b)."

(b) Paragraph (5) ("Fund") is amended by striking the words and punctuation: ", pursuant to a budget or budget ordinance."

(c) Paragraph (6) ("Fund balance") is amended by deleting the word and punctuation "reserves,".

(d) Paragraph (13) ("Unit", et. al.) is amended by striking out the word "independent".

(e) Paragraph (15) ("Public authority") is rewritten as follows:

"(15) 'Public authority' is (i) a municipal corporation (other than a unit of local government) that is not subject to the Executive Budget Act (G.S. 143-1

through G.S. 143-34.2) or (ii) a local governmental authority, board, commission, council, or agency that (a) is not a municipal corporation, (b) is not subject to the Executive Budget Act, and (c) operates on an area, regional, or multi-unit basis, and the budgeting and accounting systems of which are not fully a part of the budgeting and accounting systems of a unit of local government."

(f) Paragraph (12) ("Nontax revenues") is deleted and the succeeding paragraphs renumbered accordingly.

**Sec. 5.** G.S. 159-8 is rewritten as follows:

**"§ 159-8. Annual balanced budget ordinance.** — (a) Each local government and public authority shall operate under an annual balanced budget ordinance adopted and administered in accordance with this article. A budget ordinance is balanced when the sum of estimated net revenues and appropriated fund balances is equal to appropriations. It is the intent of this article that all moneys received and expended by a local government or public authority should be included in the budget ordinance. Therefore, notwithstanding any other provision of law, after July 1, 1973, no local government or public authority may expend any moneys, regardless of their source (including moneys derived from bond proceeds, federal, State, or private grants or loans, or special assessments), except in accordance with a budget ordinance adopted pursuant to this article.

(b) The budget ordinance of a unit of local government shall cover a fiscal year beginning July 1 and ending June 30. The budget ordinance of a public authority shall cover a fiscal year beginning July 1 and ending June 30, except that the Local Government Commission, if it determines that a different fiscal year would facilitate the authority's financial operations, may enter an order permitting an authority to operate under a fiscal year other than from July 1 to June 30. If the Commission does permit an authority to operate under an altered fiscal year, the Commission's order shall also modify the budget calendar set forth in G.S. 159-10 through G.S. 159-13 so as to correspond with the altered fiscal year."

**Sec. 6.** The first sentence of G.S. 159-9 is amended by striking the words "hold office" and inserting in their place the word "serve".

**Sec. 7.** G.S. 159-13(a) is amended as follows:

(a) In the first sentence of the subsection, by striking the number "20" and inserting in lieu thereof the number "10".

(b) In the second sentence of the subsection, by striking the words "at least the following funds" and inserting in lieu thereof the words "each of the following funds applicable to the unit or public authority".

**Sec. 8.** G.S. 159-13(a) is amended as follows:

(a) Paragraph (3) is rewritten as follows:

"(3) School funds required by G.S. Chapter 115, except that the school debt service fund may be combined with the debt service fund required by paragraph(2) of this subsection."

(b) Paragraph (4) is rewritten as follows:

"(4) Public assistance funds established pursuant to G.S. Chapter 108."

(c) The first sentence of paragraph (6) is rewritten as follows: "A fund for each utility or other public service enterprise owned or operated by the unit or public authority."

(d) Paragraph (7) is rewritten as follows:

"(7) A capital project fund to account for the proceeds of each bond order and for all other resources used for the capital projects financed by the bond proceeds. A unit or public authority may account for two or more bond orders in one capital project fund, but the proceeds of each such bond order and the other revenues associated with that bond order shall be separately accounted for in the fund."

- (e) A new paragraph, numbered (9), is added:  
"(9) A reappraisal reserve fund, as required by G.S. 153-150."
- (f) Paragraph (8) is rewritten as follows:  
"(8) A fund for each special district or public authority whose taxes or special assessments are collected by the unit."
- Sec. 9.** G.S. 159-13(b) is amended as follows:
- (a) Paragraph (10) is amended by changing the period at the end thereof to a comma, and adding the following: "except for appropriations from such a fund to an appropriate account in a capital reserve fund."
- (b) Paragraph (9) is amended by striking the words "Chapters 115 and 115A" and inserting in lieu thereof the words "Chapter 115".
- (c) Paragraph (11) is amended by striking the words "exist or to levy taxes" and inserting in lieu thereof the word "function".
- (d) Paragraph (12) is rewritten as follows:  
"(12) No appropriation may be made from a public assistance fund or a separate category of expenditure maintained in accordance with G.S. Chapter 108 to any other fund or category of expenditure, as the case may be, except in accordance with G.S. 108-57."
- (e) Paragraph (13) is rewritten as follows:  
"(13) No appropriation of the proceeds of a bond issue may be made from the capital project fund account established to account for the proceeds of the bond issue except (i) for the purpose for which the bonds were issued, (ii) to the appropriate debt service fund, or (iii) to an account within a capital reserve fund consistent with the purposes for which the bonds were issued. The total of other appropriations made to another fund from such a capital project fund account may not exceed the amount of revenues other than bond proceeds available to the account."
- (f) Paragraph (14) is rewritten as follows:  
"(14) No appropriation may be made from a utility or public service enterprise fund to any other fund than the appropriate debt service fund unless the total of all other appropriations in the fund equal or exceed the amount that will be required during the fiscal year, as shown by the budget ordinance, to meet operating expenses, capital outlay, and debt service on outstanding utility or enterprise bonds or notes."
- (g) Following paragraph (2) and before paragraph (3), two new paragraphs, numbered (3) and (4), are inserted and the present paragraphs, beginning with present paragraph (3), are renumbered accordingly. The two new paragraphs read as follows:  
"(3) Sufficient funds to meet the amounts to be paid during the fiscal year under continuing contracts previously entered into shall be appropriated.  
"(4) The sum of estimated net revenues and appropriated fund balance in each fund shall be equal to appropriations in that fund."
- (h) A new paragraph (17) is added, as follows:  
"(17) No appropriations may be made from a county reappraisal reserve fund except for the purposes for which the fund was established."
- (i) The last full paragraph of the subsection is amended by striking the word and numbers "(9), (10), (11), (12), or (14)" and inserting in lieu thereof the word and numbers "(11), (12), (13), (14), (16), (17), or (18)".

**Sec. 10.** In the first paragraph of G.S. 159-14, the last sentence is rewritten as follows: "Upon receiving notification from the county or city governing board as to what rate of tax will be approved or after June 15 if no such notification is received, the district governing board shall complete its budget deliberations and shall adopt its budget ordinance."

**Sec. 11.** G.S. 159-14 is amended by inserting a new paragraph between the present first and second paragraphs, to read as follows:

"If the tax-levying power of a special district is by law exercised on its behalf by a county or city, and if the county or city governing board has no discretion as to what rate of tax it will levy on behalf of the special district, the governing board of the district shall notify the city or county by June 15 of the rate of tax it wishes to have levied. If the district does not notify the county or city governing board on or before June 15 of the rate of tax it wishes to have levied, the county or city is not required to levy a tax for the district for the- fiscal year."

**Sec. 12.** The first paragraph of G.S. 159-15 is rewritten, to read as follows:

"§ 159-15. **Amendments to the budget ordinance.** — Except as otherwise restricted by law, the governing board may amend the budget ordinance at any time after the ordinance's adoption in any manner, so long as the ordinance, as amended, continues to satisfy the requirements of G.S. 159-8 and 159-13. However, no amendment may increase or reduce a property tax levy or in any manner alter a property taxpayer's liability, unless the board is ordered to do so by a court of competent jurisdiction, or by a State agency having the power to compel the levy of taxes by the board."

**Sec. 13.** G.S. 159-17 is rewritten as follows:

"§ 159-17. **Ordinance procedures not applicable to budget adoption.** — Notwithstanding the provisions of any city charter, general law, or local act:

- (i) any action with respect to the adoption or amendment of the budget ordinance may be taken at any regular or special meeting of the governing board by a simple majority of those present and voting, a quorum being present;
- (ii) no action taken with respect to the adoption or amendment of the budget ordinance need be published or is subject to any other procedural requirement governing the adoption of ordinances or resolutions by the governing board other than the procedures set out in this article;
- (iii) the adoption and amendment of the budget ordinance and the levy of taxes in the budget ordinance are not subject to the provisions of any city charter or local act concerning initiative or referendum.

During the period beginning with the submission of the budget to the governing board and ending with the adoption of the budget ordinance, the governing board may hold any special meetings that may be necessary to complete its work on the budget ordinance. Any provisions of law concerning the call of special meetings do not apply during that period so long as (i) each member of the board has actual notice of each special meeting called for the purpose of considering the budget, and (ii) no business other than consideration of the budget is taken up. This section does not allow the holding of closed meetings or executive sessions by any governing board otherwise prohibited by law from holding such a meeting or session, and may not be construed to do so.

No general law, city charter, or local act enacted or taking effect after July 1, 1973, may be construed to modify, amend, or repeal any portion of this section unless it expressly so provides by specific reference to this section."

**Sec. 14.** The first sentence of G.S. 159-19 is rewritten as follows: "The resolution or ordinance may be amended from time to time in the same manner in which it was adopted."

**Sec. 15.** G.S. 159-20 is amended by striking in the first sentence the words "and transfer of moneys or investment securities".

**Sec. 16.** G.S. 159-22 is rewritten as follows:

"§ 159-22. **Withdrawals.** — Withdrawals from a capital reserve fund may be authorized by resolution or ordinance of the governing board of the local government or public authority. No withdrawal may be authorized for any purpose not specified in the resolution or ordinance establishing the fund or in a resolution or ordinance amending it. The withdrawal resolution or

ordinance shall authorize an appropriation from the capital reserve fund to an appropriate appropriation in one of the funds maintained pursuant to G.S. 159-13(a). No withdrawal may be made which would result in an appropriation for purposes for which an adequate balance of eligible moneys or investment securities is not then available in the capital reserve fund."

**Sec. 17.** G.S. 159-24 is amended by striking from the beginning of the third sentence the words and punctuation "Except as hereinafter provided," and by capitalizing the next word, "the".

**Sec. 18.** G.S. 159-25(a) is amended in the last sentence by changing the word "accountant" to read "accountants".

**Sec. 19.** G.S. 159-25(b) is rewritten as follows:

"(b) Except as otherwise provided by law, all checks or drafts on an official depository shall be signed by the finance officer and countersigned by another official of the local government or public authority designated for this purpose by the governing board. If the board makes no other designation, the chairman of the board or chief executive officer of the local government or public authority shall countersign these checks and drafts. The governing board of a unit or authority 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."

**Sec. 20.** G.S. 159-25(c) is amended by inserting between the word "regulations" and the word "governing" the words "having the force of law".

**Sec. 21.** G.S. 159-27 is amended by rewriting subsection (a) to read as follows:

"(a) The finance officer shall distribute property tax collections among the appropriate funds, according to the budget ordinance, at least monthly."

**Sec. 22.** G.S. 159-28(a) is amended by striking from the first sentence the words "duty of administering that portion of the budget ordinance to which it is to be charged" and inserting in lieu thereof the words "responsibility for administering the function or agency to which the expense is to be charged".

**Sec. 23.** G.S. 159-28 is amended as follows:

(a) Subsection (a) is amended by striking from the third sentence of the first paragraph the words "or bonds or notes duly authorized".

(b) Subsection (b) is amended by rewriting the first sentence thereof to read as follows:

"(b) No contract or agreement requiring the payment of money, nor any requisition or purchase order for supplies or materials, may be made unless an appropriation therefor appears in the budget ordinance and a sufficient unencumbered balance remains in the appropriation to pay the sums to fall due thereunder during the fiscal year."

(c) Subsection (b) is amended by striking from the second sentence the words and punctuation "bonds or notes duly authorized, or binding grants or loans or grant or loan commitments duly made,".

**Sec. 24.** The first sentence of G.S. 159-30(b) is rewritten as follows:

"Moneys may be deposited at interest in any bank or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Commission may approve."

**Sec. 25.** G.S. 159-30(c) is amended by rewriting paragraph (6) as follows:

"(6) Obligations maturing no later than 18 months after the date of purchase of the Federal Intermediate Credit Banks, the Federal Home Loan Banks, the Federal National Mortgage Association, the Banks for Cooperatives, and the Federal Land Banks."

**Sec. 26.** G.S. 159-31 is amended by adding, in subsection (a), a new sentence after the present first sentence, to read as follows:

"In addition, a unit or public authority, with the written permission of the secretary, may designate a state bank or trust company located in another state as an official depository for the purpose of acting as fiscal agent for the unit or public authority."

**Sec. 27.** G.S. 159-32 is rewritten to read as follows:

"§ 159-32. **Daily deposits.** — Except as otherwise provided by law, all taxes and other moneys collected or received by an officer or employee of a local government or public authority shall be deposited in accordance with this section. Each officer and employee of a local government or public authority whose duty it is to collect or receive any taxes or other moneys shall deposit his collections and receipts daily. If the governing board gives its approval, deposits shall be required only when the moneys on hand amount to as much as two hundred fifty dollars (\$250.00), but in any event a deposit shall be made on the last business day of the month. All deposits shall be made with the finance officer or in an official depository. Deposits in an official depository shall be immediately reported to the finance officer by means of a duplicate deposit ticket. The finance officer may at any time audit the accounts of any officer or employee collecting or receiving taxes or other moneys, and may prescribe the form and detail of these accounts. The accounts of such an officer or employee shall be audited at least annually."

**Sec. 28.** G.S. Chapter 159 is amended by inserting a new section, G.S. 159-33.1, as follows:

"§ 159-33.1. **Semiannual reports of financial information.** — The finance officer of each unit and public authority shall submit to the secretary on January 1 and July 1 of each year (or such other dates as the secretary may prescribe) a statement of financial information concerning the unit or public authority. The secretary may prescribe the information to be included in the statement and may prescribe the form of the statement."

**Sec. 28.1.** Article 3 of Chapter 159 of the General Statutes is amended by inserting a new Part therein as follows:

"Part 4. Public Hospitals.

"§ 159-39. **Special regulations pertaining to public hospitals.** — (a) For the purposes of this Part, "public hospital" means any hospital that

- (1) is owned by or leased to a county, city, hospital district, or hospital authority, or
- (2) is owned by or leased to a nonprofit corporation organized under Chapter 55A of the General Statutes in which a majority of the board of directors of the corporation consists of or are appointed by the governing body of a county, city, hospital district, or hospital authority, or
- (3) on whose behalf a county or city has issued and has outstanding general obligation or revenue bonds, or to which a county or city makes current appropriations (other than appropriations for the cost of medical care to prisoners or indigents).

(b) Except as provided in this Part, none of the provisions of Parts 1, 2, and 3 of this Article apply to public hospitals.

(c) Each public hospital shall operate under an annual balanced budget. A budget is balanced when the sum of appropriations is equal to the sum of estimated net revenues and appropriated fund balances.

(d) The governing board of each public hospital shall appoint or designate a finance officer, who shall have the following powers and duties:

- (1) He shall prepare the annual budget for presentation to the governing board of the public hospital and shall administer the budget as approved by the board.
- (2) He shall keep the accounts of the hospital in accordance with generally accepted principles of accounting.
- (3) He shall prepare and file a statement of the financial condition of the hospital as revealed by its accounts upon the request of the hospital governing board or the governing board of any county, city, or other unit of local government that has issued on behalf of the hospital and has

outstanding its general obligation or revenue bonds or makes current appropriations to the hospital (other than appropriations for the cost of medical care to prisoners or indigents).

- (4) He shall receive and deposit all moneys accruing to the hospital, or supervise the receipt and deposit of money by other duly authorized officers or employees of the hospital.
- (5) He shall supervise the investment of idle funds of the hospital.
- (6) He shall maintain all records concerning the bonded debt of the hospital, if any, determine the amount of money that will be required for debt service during each fiscal year, and maintain all sinking funds, but shall not be responsible for records concerning the bonded debt of any county, city, or other unit of local government incurred on behalf of the hospital.

(e) The Local Government Commission has authority to issue rules and regulations governing procedures for the receipt, deposit, investment, transfer, and disbursement of money and other assets by public hospitals, may inquire into and investigate the internal control procedures of a public hospital, and may require any modifications in internal control procedures which, in the opinion of the Commission, are necessary or desirable to prevent embezzlements, mishandling of funds, or continued operating deficits.

(f) The accounting system of a public hospital shall be so designed that the true financial condition of the hospital can be determined therefrom at any time. As soon as possible after the close of each fiscal year, the accounts shall be audited by a certified public accountant or by an accountant certified by the Local Government Commission as qualified to audit local government accounts. The auditor shall be selected by and shall report directly to the hospital governing board. The audit contract or agreement shall be in writing, shall include all its terms and conditions, and shall be submitted to the Secretary of the Local Government Commission for his approval as to form, terms and conditions. The terms and conditions of the audit shall include the scope of the audit, and the requirement that upon completion of the examination the auditor shall prepare a written report embodying financial statements and his opinion and comments relating thereto. The finance officer shall file a copy of the audit with the Secretary of the Local Government Commission and with the finance officer of any county, city, or other unit of local government that has issued on behalf of the hospital and has outstanding its general obligation or revenue bonds or makes current appropriations to the hospital (other than appropriations for the cost of medical care to prisoners or indigents).

(g) A public hospital may deposit or invest at interest all or part of its cash balance pursuant to G.S. 159-30.

(h) Public hospitals are subject to G.S. 159-31 with regard to selection of an official depository and security of deposits.

(i) Public hospitals are subject to G.S. 159-32 with regard to daily deposits.

(j) Public hospitals are subject to G.S. 159-33 with regard to semiannual reports to the Local Government Commission on the status of deposits and investments.

(k) Any hospital district or hospital authority having outstanding general obligation or revenue bonds is subject to G.S. 159-35, G.S. 159-36, G.S. 159-37, and G.S. 159-38."

**Sec. 29.** Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.1, to read as follows:

"**Sec. 37.1.** G.S. Chapter 157 is amended by inserting a new section, numbered G.S. 157-4.2, to read as follows:

"**§ 157-4.2. Authority budgeting and accounting systems as a part of city or county budgeting and accounting systems.** — The council of a city or the board of commissioners of a county may by resolution provide that the budgeting and accounting systems of the city's or county's housing authority (or, if the city's redevelopment commission is exercising the powers, duties, and responsibilities of a housing authority, the budgeting and accounting systems of the

redevelopment commission) shall be an integral part of the budgeting and accounting systems of the city or county. If such a resolution is adopted:

- (1) For purposes of the Local Government Budget and Fiscal Control Act, the authority (or commission) shall not be considered a "public authority", as that phrase is defined in G.S. 159-7(b), but rather shall be considered a department or agency of the city or county. The operations of the authority (or commission) shall be budgeted and accounted for as if the operations were those of a public enterprise of the city or county.
- (2) The budget of the authority (or commission) shall be prepared and submitted in the same manner and according to the same procedures as are the budgets of other departments and agencies of the city or county; and the budget ordinance of the city or county shall provide for the operations of the authority (or commission).
- (3) The budget officer and finance officer of the city or county shall administer and control that portion of the city or county budget ordinance relating to the operations of the authority (or commission)'."

**Sec. 30.** Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.2, to read as follows:

"**Sec. 37.2.** G.S. Chapter 160 is amended by inserting a new section, numbered G.S. 160-457.1a, immediately after G.S. 160-457.1. to read as follows:

"**§ 160-457.1a. Commission budgeting and accounting systems as a part of municipality budgeting and accounting systems.** — The governing body of a municipality may by resolution provide that the budgeting and accounting systems of the municipality's redevelopment commission or, if the municipality's housing authority is exercising the powers, duties, and responsibilities of a redevelopment commission, the budgeting and accounting systems of the housing authority, shall be an integral part of the budgeting and accounting systems of the municipality. If such a resolution is adopted:

- (1) For purposes of the Local Government Budget and Fiscal Control Act, the commission or authority shall not be considered a "public authority", as that phrase is defined in G.S. 159-7(b), but rather shall be considered a department or agency of the municipality. The operations of the commission or authority shall be budgeted and accounted for as if the operations were those of a public enterprise of the municipality.
- (2) The budget of the commission or authority shall be prepared and submitted in the same manner and according to the same procedures as are the budgets of other departments and agencies of the municipality; and the budget ordinance of the municipality shall provide for the operations of the commission or authority.
- (3) The budget officer and finance officer of the municipality shall administer and control that portion of the municipality's budget ordinance relating to the operations of the commission or authority'."

**Sec. 31.** Chapter 780 of the 1971 Session Laws is amended by adding a new section, numbered Sec. 37.3, to read as follows:

"**Sec. 37.3.** Chapter 583 of the Public-Local Laws of 1923 is amended by adding at the end of Section 7 thereof the following:

'For purposes of the Local Government Budget and Fiscal Control Act (G.S. Chapter 159, Subchapter III), the board of trustees of a cemetery is a board of the municipal corporation establishing the board of trustees and is not a public authority as defined by G.S. 159-7'."

**Sec. 32.** This act takes effect upon ratification.

In the General Assembly read three times and ratified, this the 14th day of May, 1973.