

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 799
Committee Substitute Favorable 5/2/23

Short Title: Local Government Audits.

(Public)

Sponsors:

Referred to:

April 19, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE THAT ANNUAL AUDITS OF UNITS OF LOCAL GOVERNMENT,
3 PUBLIC AUTHORITIES, AND LOCAL SCHOOL ADMINISTRATIVE UNITS BE
4 CONDUCTED BY AN ACCOUNTANT CERTIFIED BY THE LOCAL GOVERNMENT
5 COMMISSION; AND TO APPROPRIATE FUNDS TO THE NC ASSOCIATION OF
6 REGIONAL COUNCILS OF GOVERNMENTS TO ASSIST LOCAL GOVERNMENTS
7 WITH FINANCIAL RECORD KEEPING.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 159-34 reads as rewritten:

10 "§ 159-34. Annual independent audit; rules and regulations.

11 (a) Each unit of local government and public authority shall have its accounts audited as
12 soon as possible after the close of each fiscal year by a year. The certified public accountant or
13 by an accountant conducting the audit shall be certified by the Commission as qualified to audit
14 local government accounts. When specified by the secretary, the audit shall evaluate the
15 performance of a unit of local government or public authority with regard to compliance with all
16 applicable federal and State agency regulations. This audit, combined with the audit of financial
17 accounts, shall be deemed to be the single audit described by the "Federal Single Audit Act of
18 1984".

19 (a1) The auditor shall be selected by and shall report directly to the governing board. The
20 governing board shall solicit sealed bids for conducting the audit, which may be done annually
21 but at least once every five years. The governing board shall select an auditor from those sealed
22 bids based solely on cost, expertise, and time for completion of the audit and without information
23 as to identity of the bidder. If upon opening that sealed bid, the governing board determines that
24 the auditor cannot meet the audit schedule of the governing board or has performed inadequately
25 on a prior audit of the governing board, the governing board may reject that sealed bid and solicit
26 sealed bids again in accordance with this subsection.

27 (a2) The audit contract or agreement shall comply with all of the following:

28 (i)-(1) ~~be~~ Be in writing, writing.

29 (ii)-(2) ~~include~~ Include the entire entity in the scope of the audit, except that an audit
30 for purposes other than the annual audit required by this section should include
31 an accurate description of the scope of the ~~audit~~, audit.

32 (iii)-(3) ~~require~~ Require that a typewritten or printed report on the audit be prepared
33 as set forth ~~herein~~, herein.

34 (iv)-(4) ~~include~~ Include all of its terms and ~~e~~onditions, and conditions.

35 (v)-(5) ~~be~~ Be submitted to the secretary for ~~his~~ approval as to form, terms, conditions,
36 and compliance with the rules of the Commission.



1 (a3) As a minimum, the required report shall include the financial statements prepared in
2 accordance with generally accepted accounting principles, all disclosures in the public interest
3 required by law, and the auditor's opinion and comments relating to financial statements. The
4 audit shall be performed in conformity with generally accepted auditing standards. The finance
5 officer shall file a copy of the audit report with the secretary, and shall submit all bills or claims
6 for audit fees and costs to the secretary for ~~his~~ approval. Before giving ~~his~~ approval the secretary
7 shall determine that the audit and audit report substantially conform to the requirements of this
8 section. It shall be unlawful for any unit of local government or public authority to pay or permit
9 the payment of such bills or claims without ~~this approval~~. the approval of the secretary.

10 (a4) Each officer and employee of the local government or local public authority having
11 custody of public money or responsibility for keeping records of public financial or fiscal affairs
12 shall produce all books and records requested by the auditor and shall divulge such information
13 relating to fiscal affairs as ~~he may request~~. may be requested. If any member of a governing board
14 or any other public officer or employee shall conceal, falsify, or refuse to deliver or divulge any
15 books, records, or information, with an attempt thereby to mislead the auditor or impede or
16 interfere with the audit, ~~he~~ that individual is guilty of a Class 1 misdemeanor.

17 (b) ~~The Local Government~~ Commission has authority to issue rules and regulations for
18 the purpose of improving the quality of auditing and the quality and comparability of reporting
19 pursuant to this section or any similar section of the General Statutes. The rules and regulations
20 may consider the needs of the public for adequate information and the performance that the
21 auditor has demonstrated in the past, and may be varied according to the size, purpose or function
22 of the unit, or any other criteria reasonably related to the purpose or substance of the rules or
23 regulation. The Commission shall establish a process for certified public accountants and
24 accountants to become certified to conduct annual audits under this section. Any certified public
25 accountant or accountant certified to conduct annual audits may be removed for cause.

26 (c) Notwithstanding any other provision of law, except for Article 5A of Chapter 147 of
27 the General Statutes pertaining to the State Auditor, all State departments and agencies shall rely
28 upon the single audit accepted by the secretary as the basis for compliance with applicable federal
29 and State regulations. All State departments and agencies which provide funds to local
30 governments and public authorities shall provide the Commission with documents that the
31 Commission finds are in the prescribed format describing standards of compliance and suggested
32 audit procedures sufficient to give adequate direction to independent auditors retained by local
33 governments and public authorities to conduct a single audit as required by this section. The
34 secretary shall be responsible for the annual distribution of all such standards of compliance and
35 suggested audit procedures proposed by State departments and agencies and any amendments
36 thereto. Further, the Commission with the cooperation of all affected State departments and
37 agencies shall be responsible for the following:

- 38 (1) Procedures for the timely distribution of compliance standards developed by
39 State departments and agencies, reviewed and approved by the Commission
40 to auditors retained by local governments and public authorities.
- 41 (2) Procedures for the distribution of single audits for local governments and
42 public authorities such that they are available to all State departments and
43 agencies which provide funds to local units.
- 44 (3) The acceptance of single audits on behalf of all State departments and
45 agencies; provided that, the secretary may subsequently revoke such
46 acceptance for cause, whereupon affected State departments and agencies
47 shall no longer rely upon such audit as the basis for compliance with
48 applicable federal and State regulations.

49 (d) Notwithstanding the requirement that the auditor is selected by and reports directly to
50 the governing board in subsection (a) of this section, the Commission may require the governing
51 board of a unit of local government or public authority that has been the subject of an

1 investigative audit with findings by the State Auditor, upon receipt of the investigative audit
2 report in accordance with G.S. 147-64.6(c)(14), to select the certified public accountant to
3 conduct the annual audit required by this section from a list of three certified public accountants
4 provided by the Commission. The Commission may instruct the Secretary to issue a request for
5 proposals when selecting a certified public accountant under this subsection. Upon exercise of
6 this authority granted by this subsection, the certified public accountant shall report directly to
7 the Commission and governing board, shall comply with all rules of the Commission, and shall
8 be paid by the governing board. The Commission may exercise the authority granted by this
9 subsection for up to three fiscal years after the release of the investigative report with findings
10 by the State Auditor.

11 (e) The secretary shall report annually to the Commission and the General Assembly a
12 list of the units of local government and public authorities failing to complete and report to the
13 Commission, in a timely fashion, two or more consecutive annual audits as required by this
14 section."

15 **SECTION 2.** G.S. 115C-447 reads as rewritten:

16 "**§ 115C-447. Annual independent audit.**

17 (a) Each local school administrative unit shall have its accounts and the accounts of
18 individual schools therein audited as soon as possible after the close of each fiscal ~~year~~ by a year.
19 The certified public accountant or ~~by an~~ accountant conducting the audit shall be certified by the
20 Local Government Commission as qualified to audit local government accounts. The auditor who
21 audits the accounts of a local school administrative unit shall also audit the accounts of its
22 individual schools.

23 (a1) The auditor shall be selected by and shall report directly to the board of education.
24 The board of education shall solicit bids for conducting the audit by sealed bid, which may be
25 done annually but at least once every five years. The board of education shall select an auditor
26 from those sealed bids based solely on cost, expertise, and time for completion of the audit and
27 without information as to identity of the bidder. If upon opening that sealed bid, the board of
28 education determines that the auditor cannot meet the audit schedule of the board of education
29 or has performed inadequately on a prior audit of the board of education, the board of education
30 may reject that sealed bid and solicit sealed bids again in accordance with this subsection.

31 (a2) The audit contract shall be in writing, shall include all its terms and conditions, and
32 shall be submitted to the Secretary of the Local Government Commission for ~~his~~ approval as to
33 form, terms and conditions. The terms and conditions of the audit contract shall include the scope
34 of the audit, and the requirement that upon completion of the examination the auditor shall
35 prepare a typewritten or printed report embodying financial statements and ~~his~~ the auditor's
36 opinion and comments relating thereto. The financial statements accompanying the auditor's
37 report shall be prepared in conformity with generally accepted accounting principles. The auditor
38 shall file a copy of the audit report with the Secretary of the Local Government Commission, the
39 State Board of Education, the board of education and the board of county commissioners, and
40 shall submit all bills or claims for audit fees and costs to the Secretary of the Local Government
41 Commission for ~~his~~ approval. It shall be unlawful for any local school administrative unit to pay
42 or permit the payment of such bills or claims without ~~this approval.~~ approval of the Secretary.

43 (a3) Each officer, employee and agent of the local school administrative unit having
44 custody of public money or responsibility for keeping records of public financial or fiscal affairs
45 shall produce all books and records requested by the auditor and shall divulge such information
46 relating to fiscal affairs as ~~he may request.~~ may be requested. If any member of a board of
47 education or any other public officer, employee or agent shall conceal, falsify, or refuse to deliver
48 or divulge any books, records, or information, with an intent thereby to mislead the auditor or
49 impede or interfere with the audit, ~~he~~ the individual is guilty of a Class 1 misdemeanor.

50 (a4) The State Auditor shall have authority to prescribe the manner in which funds
51 disbursed by administrative units by warrants on the State Treasurer shall be audited.

1 (b) When the State Board of Education finds that incidents of fraud, embezzlement, theft,
2 or management failures in a local school administrative unit make it appropriate to review the
3 internal control procedures of the unit, the State Board of Education shall so notify the unit. If
4 the incidents were discovered by the firm performing the audit under subsection (a) of this
5 section, the board of the local school administrative unit shall submit the audit together with a
6 plan for any corrective actions relative to its internal control procedures to the State Board of
7 Education and the Local Government Commission for approval and shall implement the
8 approved changes prior to the next annual audit. Where the firm preparing the audit under
9 subsection (a) of this section identifies significant problems with internal control procedures the
10 local school administrative unit shall submit the audit together with a plan for any corrective
11 actions relative to its internal control procedures to the State Board of Education and the Local
12 Government Commission for approval and shall implement the approved changes prior to the
13 next annual audit.

14 (c) If the incidents were not discovered by the firm performing the audit under subsection
15 (a) of this section, the State Board of Education and the Local Government Commission shall
16 employ an audit firm to review the internal control procedures of that local school administrative
17 unit. Upon completion of this review, the audit firm shall report publicly to the State Board of
18 Education, the Local Government Commission, and the board of the local school administrative
19 unit. If the State Board of Education determines that significant changes are needed in the internal
20 control procedures of the local school administrative unit, the local board shall submit a plan of
21 corrective actions to the State Board of Education and the Local Government Commission for
22 approval and shall implement the approved changes prior to the next annual audit. The local
23 school administrative unit shall pay the cost of this audit.

24 (d) The Local Government Commission has authority to issue rules and regulations for
25 the purpose of improving the quality of auditing and the quality and comparability of reporting
26 pursuant to this section or any similar section of the General Statutes. The rules and regulations
27 may consider the needs of the public for adequate information and the performance that the
28 auditor has demonstrated in the past and may be varied according to the size, purpose, or function
29 of the unit, or any other criteria reasonably related to the purpose or substance of the rules or
30 regulations. The Local Government Commission shall establish a process for certified public
31 accountants and accountants to become certified to conduct annual audits under this section. Any
32 certified public accountant or accountant certified to conduct annual audits may be removed for
33 cause.

34 (e) The Secretary shall report annually to the Local Government Commission and the
35 General Assembly a list of the local school administrative units failing to complete and report to
36 the Commission, in a timely fashion, two or more consecutive annual audits as required by this
37 section."

38 **SECTION 3.** There is appropriated the sum of three million five hundred twenty
39 thousand dollars (\$3,520,000) in recurring funds for the 2023-2024 fiscal year to the North
40 Carolina Association of Regional Councils of Governments to create a financial administration
41 program. This program shall provide the resources to employ 32 additional finance professionals
42 in the 16 regions to assist small local governments and public authorities with returning to a
43 compliant status, with priority for local governments and public authorities with limited means
44 and those local governments or public authorities on the Unit Assistance List published by the
45 Local Government Commission annually.

46 **SECTION 4.** This act becomes effective July 1, 2023, and applies to annual audits
47 conducted on or after that date.