

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023

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HOUSE BILL 205  
Committee Substitute Favorable 3/21/23

Short Title: Transparent Governance & Integrity Act.-AB

(Public)

Sponsors:

Referred to:

February 27, 2023

A BILL TO BE ENTITLED

AN ACT PROVIDING FOR GREATER TRANSPARENCY IN AND MAINTENANCE OF  
STATE AND LOCAL GOVERNMENT FINANCIAL MATTERS.

The General Assembly of North Carolina enacts:

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

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

...

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

...."

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

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

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

(b) The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, "minimal cost" shall mean the actual cost of reproducing the public record or public information.



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

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

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

12 **"§ 147-13. May convene Council of State; quorum; journal.**

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

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

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

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

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

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

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

40 **"§ 153A-54. Financial management education required.**

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

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

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

46 ...

47 **"§ 160A-89. Financial management education required.**

48       (a) A financial management education program of no less than six clock hours shall be  
49 available to governing board members. The financial management education program shall cover  
50 the laws and principles that govern local government fiscal and debt management, including  
51 Chapter 159 of the General Statutes.

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

4            (1) The Local Government Commission is exercising its authority under Article  
5 11 of Chapter 159 of the General Statutes and has assumed control of the  
6 financial affairs of the local government.

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

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

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

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

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

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

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

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

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

36 **"§ 160A-155.1. Required training for certain administrators.**

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

40            (1) The Local Government Commission is exercising its authority under Article  
41 10 or 11 of Chapter 159 of the General Statutes with respect to the city.

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

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

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

48        (b) The education required by subsection (a) of this section shall incorporate fiscal  
49 management and the requirements of Chapter 159 of the General Statutes. The education may be  
50 provided by the Local Government Commission, the School of Government at the University of  
51 North Carolina, the North Carolina Community College System, the North Carolina League of

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

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

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

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

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

17 **"§ 159-25. Duties of finance officer; dual signatures on checks; internal control procedures**  
18 **subject to Commission regulation.**

19 ...

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

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

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

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

- 49 a. The Local Government Commission is exercising its authority under  
50 Article 10 or 11 of Chapter 159 of the General Statutes with respect to  
51 the city.

- 1                   b.     The city has received a ~~unit~~-letter from the Local Government  
2                                   Commission due to a deficiency in complying with Chapter 159 of the  
3                                   General Statutes."

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

6 **"§ 159-183. Personally identifiable information in reports alleging improper governmental**  
7 **activities.**

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

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

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

15 **"§ 159-18. Capital reserve funds.accounts.**

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

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

24 **"§ 159-19. Amendments.**

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

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

30 **"§ 159-20. Funding capital reserve funds.**

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

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

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

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

44 **"§ 159-21. Investment.**

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

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

48 **"§ 159-22. Withdrawals.**

49                   Withdrawals from a capital reserve ~~fund-account~~ may be authorized by resolution ~~or~~  
50 ~~ordinance~~ of the governing board of the local government or public authority. No withdrawal  
51 may be authorized for any purpose not specified in the resolution ~~or ordinance~~ establishing the

1 ~~fund-account~~ or in a resolution or ordinance amending it. The withdrawal resolution or ordinance  
2 shall authorize an appropriation from the capital reserve ~~fund-account~~ to an appropriate  
3 appropriation ~~in one of the funds maintained pursuant to G.S. 159-13(a)~~ within the fund it is  
4 associated with, in accordance with the provisions of G.S. 159-13(a). No withdrawal may be  
5 made which would result in an appropriation for purposes for which an adequate balance of  
6 eligible moneys or investment securities is not then available in the capital reserve ~~fund-account~~."

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

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

14 "**§ 159-38.1. Fund balance reserve accounts.**

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

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

48 **SECTION 10.** G.S. 159B-39 reads as rewritten:

49 "**§ 159B-39. Permitted uses of revenue from electric power rates.**

50 ...

1 (e) This section applies only to ~~the following~~ cities and towns that are members of the  
 2 North Carolina Eastern Municipal Power Agency: Apex, Ayden, Belhaven, Benson, Clayton,  
 3 Edenton, Elizabeth City, Farmville, Fremont, Greenville, Hamilton, Hertford, Hobgood,  
 4 Hookerton, Kinston, LaGrange, Laurinburg, Louisburg, Lumberton, New Bern, Pikeville, Red  
 5 Springs, Robersonville, Rocky Mount, Scotland Neck, Selma, Smithfield, Southport, Tarboro,  
 6 Wake Forest, Washington, and Wilson-a joint agency created pursuant to this Article."

7 **SECTION 11.(a)** G.S. 160A-17.2 reads as rewritten:

8 "**§ 160A-17.2. Security interests in United States Department of Agriculture loans.**

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

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

20 ...

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

25 **SECTION 11.(b)** This section is effective when it becomes law and applies to loans  
 26 made on or after that date.

27 **SECTION 12.(a)** G.S. 159-12 reads as rewritten:

28 "**§ 159-12. Filing and publication of the budget; budget hearings.**

29 (a) On the same day that ~~he~~ the budget officer submits the budget to the governing board,  
 30 the budget officer shall file a copy of ~~it~~ the proposed budget ordinance in the office of the clerk  
 31 to the ~~board~~ governing board, along with a budget message, where ~~it~~ both shall remain available  
 32 for public inspection until the budget ordinance is adopted. The budget message shall include a  
 33 general description of the proposed budget, all proposed tax rates and the change in those rates  
 34 from the prior budget ordinance, all proposed fees and the change in those fees from the prior  
 35 adopted fees, and other synopsis information the budget officer deems important. The clerk shall  
 36 make a copy of the budget and budget message available to all news media in the county.

37 (a1) ~~He~~ The budget officer shall also publish a statement that the budget has been  
 38 submitted to the governing board, and is available for public inspection in the office of the clerk  
 39 to the governing board. The statement shall also give notice of the time and place of the budget  
 40 hearing hearings required by subsection (b) of this section.

41 (b) Before adopting the budget ordinance, the governing board shall hold ~~a~~ at least two  
 42 public hearing hearings on the proposed budget ordinance on separate dates at which time any  
 43 persons who wish to be heard on the budget may appear. At least one of the required public  
 44 hearings shall provide the public with detailed revenue information, including at least the  
 45 following information for the prior two fiscal years:

46 (1) The tax rate.

47 (2) The tax base.

48 (3) The tax collection rate.

49 (4) With respect to each public enterprise fund:

50 a. Rates charged.

- 1                    b. Any amounts transferred to the public enterprise fund from the general  
2                    fund.  
3                    c. Any amounts transferred from the public enterprise fund to the general  
4                    fund.  
5                    d. Any debt service payments paid by the public enterprise fund and the  
6                    estimated completion date of those debt service payments.

7            (c) If the proposed budget ordinance raises the tax rate from the previous fiscal year's  
8 budget ordinance, the governing board shall so notify every property owner in the jurisdiction of  
9 the governing board in writing by mail with the United States Postal Service at least 10 days prior  
10 to the date of the public hearing dedicated to the revenue portion of the proposed budget  
11 ordinance. Such mailing shall include all of the following:

- 12                    (1) The date, time, and location of the public hearing.  
13                    (2) The contact information of the governing board.  
14                    (3) An explanation of how to access a copy of the proposed budget ordinance.

15            (d) If the proposed budget ordinance raises the rates charged by a public enterprise fund  
16 or proposes a transfer of any amount from the general fund to the public enterprise fund, the  
17 governing board shall so notify every user of the public enterprise fund in writing by mail with  
18 the United States Postal Service at least 10 days prior to the date of the public hearing dedicated  
19 to the revenue portion of the proposed budget ordinance. For purposes of this subsection, a rise  
20 in the rates shall include an increase in the rate and a change in base rates. Such mailing shall  
21 include all of the following:

- 22                    (1) The date, time, and location of the public hearing.  
23                    (2) The contact information of the governing board.  
24                    (3) An explanation of how to access a copy of the proposed budget ordinance.

25            (e) Notwithstanding subsection (b) of this section, any unit of local government with a  
26 population of less than 2,000 persons according to the last federal decennial census shall be  
27 required to conduct only one public hearing on the proposed budget ordinance. Notwithstanding  
28 subsection (b) of this section, if the Commission has exercised its authority under  
29 G.S. 159-181(c) or (d), the Commission shall conduct at least one public hearing as required by  
30 subsection (b) of this section but may waive any additional public hearings required by this  
31 section."

32            **SECTION 12.(b)** This section becomes effective July 1, 2024, and applies to budgets  
33 adopted on or after that date.

34            **SECTION 13.** Except as otherwise provided, this act is effective when it becomes  
35 law.