

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2023

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HOUSE BILL 122

Short Title: Reimburse Late Audit Costs with Sales Tax Rev.

(Public)

Sponsors: Representative Warren.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Local Government, if favorable, Rules, Calendar, and Operations of the House

February 15, 2023

1 A BILL TO BE ENTITLED

2 AN ACT TO INCREASE COMPLIANCE BY UNITS OF LOCAL GOVERNMENT THAT
3 FAIL TO TIMELY SUBMIT AN ANNUAL AUDIT.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** G.S. 159-34 is amended by adding two new subsections to read:

6 "(e) The Commission shall provide a notice of warning to each unit of local government
7 that fails to submit an annual audit within nine months of the unit's fiscal year end. The notice
8 shall be delivered to the governing board head at the unit's primary mailing address and be made
9 available on the Department of State Treasurer's website. The notice shall be issued and made
10 available within 30 days following nine months after the unit's fiscal year end. A unit that fails
11 to comply with the notice of warning and to complete the annual audit required under subsection
12 (a) of this section within 12 months of the unit's fiscal year end shall be deemed to have given
13 consent to the withholding of a portion of its sales tax distributions, as provided in subsection (f)
14 of this section. Within 45 days of receiving the notice of warning, the unit may notify the
15 Commission that it plans to appeal the action and the unit will be scheduled to appear before the
16 Commission at its next regularly scheduled meeting.

17 "(f) A unit that fails to file a copy of its annual audit report with the secretary within 12
18 months of the unit's fiscal year end may have a portion of its quarterly sales tax distributions
19 withheld. The amount that may be withheld is an amount equal to one hundred fifty percent
20 (150%) of the cost of the required annual audit as indicated in the audit contract between the unit
21 and its external auditor for the audit report, if such a contract has been executed, or one hundred
22 fifty percent (150%) of the actual fee for the most recently filed audit report if a contract has not
23 been executed for the current year audit.

24 The Secretary of Revenue must withhold from the unit's distribution under G.S. 105-486, and
25 from the unit's distribution under G.S. 105-501 if necessary, the amount required to be withheld
26 upon written notification to do so from the Commission. The notifications must be made on a
27 quarterly basis. The amount may be withheld in subparts if the amount to be withheld exceeds
28 five percent (5%) of the unit's monthly general fund budget for the current fiscal year. The
29 subparts shall be withheld in equal parts of five percent (5%) of the unit's monthly general fund
30 budget for the current fiscal year until the total withholding amount is reached. The total amount
31 to be withheld and any schedule of withholding shall be provided by the Commission in its
32 notification to the Secretary of Revenue. The Secretary of Revenue shall begin withholding from
33 the unit's first distribution of sales and use tax that is at least 45 days after the Secretary receives
34 notification from the Commission.



1 When the required report has been filed with the secretary, reviewed to ensure compliance
2 with the requirements of this section, and accepted by the secretary, the Commission must notify
3 the Secretary of Revenue within 30 days to release the funds. The Department of Revenue must
4 release the funds in the unit's first scheduled distribution of sales tax that is at least 45 days after
5 the earlier of the following:

- 6 (1) Two years from the date of notification for the funds to be withheld.
7 (2) The date the Secretary of Revenue receives notification from the Commission
8 that a report complying with the requirements of this section was filed and
9 accepted by the secretary."

10 **SECTION 2.** This act becomes effective January 1, 2024, and applies to audits for
11 fiscal years ending on or after June 30, 2023.