

## **Chapter 158.**

### **Local Development.**

#### Article 1.

#### Local Development Act of 1925.

**§ 158-1. Repealed by Session Laws 1973, c. 803, s. 37.**

**§ 158-2. Repealed by Session Laws 1973, c. 803, s. 38.**

**§§ 158-3 through 158-7. Repealed by Session Laws 1973, c. 803, ss. 39-43.**

#### **§ 158-7.1. Local development.**

(a) **Economic Development.** – Each county and city in this State is authorized to make appropriations for economic development purposes. These appropriations must be determined by the governing body of the city or county to increase the population, taxable property, agricultural industries, employment, industrial output, or business prospects of the city or county. These appropriations may be funded by the levy of property taxes pursuant to G.S. 153A-149 and 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law. The specific activities listed in subsection (b) of this section are not intended to limit the grant of authority provided by this section.

(b) **Specific Activities.** – A county or city may undertake any of the following specific economic development activities under this section:

- (1) A county or city may acquire and develop land for an industrial park, to be used for manufacturing, assembly, fabrication, processing, warehousing, research and development, office use, or similar industrial or commercial purposes. A county may acquire land anywhere in the county, including inside of cities, for an industrial park, while a city may acquire land anywhere in the county or counties in which it is located. A county or city may develop the land by installing utilities, drainage facilities, street and transportation facilities, street lighting, and similar facilities; may demolish or rehabilitate existing structures; and may prepare the site for industrial or commercial uses. A county or city may convey property located in an industrial park pursuant to subsection (d) of this section.
- (2) A county or city may acquire, assemble, and hold for resale property that is suitable for industrial or commercial use. A county may acquire such property anywhere in the county, including inside of cities, while a city may acquire such property inside the city or, if the property will be used by a business that will provide jobs to city residents, anywhere in the county or counties in which it is located. A county or city may convey property acquired or assembled under this subdivision pursuant to subsection (d) of this section.
- (3) A county or city may acquire options for the acquisition of property that is suitable for industrial or commercial use. The county or city may assign such an option, following such procedures, for such consideration, and subject to such terms and conditions as the county or city deems desirable.
- (4) A county or city may acquire, construct, convey, or lease a building suitable for industrial or commercial use.

- (5) A county or city may construct, extend or own utility facilities or may provide for or assist in the extension of utility services to be furnished to an industrial facility, whether the utility is publicly or privately owned.
- (6) A county or city may extend or may provide for or assist in the extension of water and sewer lines to industrial properties or facilities, whether the industrial property or facility is publicly or privately owned.
- (7) A county or city may engage in site preparation for industrial properties or facilities, whether the industrial property or facility is publicly or privately owned.
- (8) A county or city may make grants or loans for the rehabilitation of commercial or noncommercial historic structures, whether the structure is publicly or privately owned.

(c) Public Hearing. – Any appropriation or expenditure for economic development purposes pursuant to this section must be approved by the county or city governing body after a public hearing, which may be part of the public hearing on the annual budget pursuant to G.S. 159-12 if the appropriation or expenditure is included in the annual budget. If the appropriation or expenditure is not included in the annual budget, the county or city shall hold at least one public hearing, publishing notice of the public hearing at least 10 days before the public hearing is held. If the appropriation or expenditure is for the acquisition of an interest in real property, the notice shall describe the interest to be acquired, the proposed acquisition cost of such interest, the governing body's intention to approve the acquisition, the source of funding for the acquisition and such other information needed to reasonably describe the acquisition. If the appropriation or expenditure is for the improvement of privately owned property by site preparation or by the extension of water and sewer lines to the property, the notice shall describe the improvements to be made, the proposed cost of making the improvements, the source of funding for the improvements, the public benefit to be derived from making the improvements, and any other information needed to reasonably describe the improvements and their purpose.

(d) Interests in Real Property. – A county or city may lease or convey interests in real property held or acquired pursuant to subsection (b) of this section in accordance with the procedures of this subsection. A county or city may convey or lease interests in property by private negotiation and may subject the property to such covenants, conditions, and restrictions as the county or city deems to be in the public interest or necessary to carry out the purposes of this section. Any such conveyance or lease must be approved by the county or city governing body, after a public hearing. The county or city shall publish notice of the public hearing at least 10 days before the hearing is held; the notice shall describe the interest to be conveyed or leased, the value of the interest, the proposed consideration for the conveyance or lease, and the governing body's intention to approve the conveyance or lease. Before such an interest may be conveyed, the county or city governing body shall determine the probable average hourly wage to be paid to workers by the business to be located at the property to be conveyed and the fair market value of the interest, subject to whatever covenants, conditions, and restrictions the county or city proposes to subject it to. The consideration for the conveyance may not be less than the value so determined.

(d1) Repealed by Session Laws 1993, c. 497, s. 22.

(d2) Calculation of Consideration. – In arriving at the amount of consideration that it receives, the Board may take into account prospective tax revenues from improvements to be constructed on the property, prospective sales tax revenues to be generated in the area, as well as

any other prospective tax revenues or income coming to the county or city over the next 10 years as a result of the conveyance or lease provided the following conditions are met:

- (1) The governing board of the county or city shall determine that the conveyance of the property will stimulate the local economy, promote business, and result in the creation of a substantial number of jobs in the county or city that pay at or above the median average wage in the county or, for a city, in the county where the city is located. A city that spans more than one county is considered to be located in the county where the greatest population of the city resides. For the purpose of this subdivision, the median average wage in a county is the median average wage for all insured industries in the county as computed by the Department of Commerce, Division of Employment Security, for the most recent period for which data is available.
- (2) The governing board of the county or city shall contractually bind the purchaser of the property to construct, within a specified period of time not to exceed five years, improvements on the property that will generate the tax revenue taken into account in arriving at the consideration. Upon failure to construct the improvements specified in the contract, the purchaser shall reconvey the property back to the county or city.

(e) Local Government Budget and Fiscal Control Act. – All appropriations and expenditures pursuant to this section shall be subject to the provisions of the Local Government Budget and Fiscal Control Acts of the North Carolina General Statutes, respectively, for cities and counties and shall be listed in the annual financial report the county or city submits to the Local Government Commission. The budget format for each such governing body shall make such disclosures in such detail as the Local Government Commission may by rule and regulation direct.

(f) Limitation. – At the end of each fiscal year, the total of the following for each county and city may not exceed one-half of one percent (0.5%) of the outstanding assessed property tax valuation for the county or city as of January 1 preceding the beginning of the fiscal year:

- (1) The investment in property acquired at any time under subdivisions (b)(1) through (b)(4) of this section and owned at the end of the fiscal year.
- (2) The amount expended during the fiscal year under subdivisions (b)(5) and (b)(7) of this section.
- (3) The amount of tax revenue that was taken into account under subsection (d2) of this section and was expected to be received during the fiscal year.

The Local Government Commission shall review the annual financial reports filed by counties and cities to determine if any county or city has exceeded the limit set by this subsection. If the Commission finds that a county or city has exceeded this limit, it shall notify the county or city. A county or city that receives a notice from the Commission under this subsection must submit to the Commission for its review and approval any appropriation or expenditure the county or city proposes to make under this section during the next three fiscal years. The Commission shall not approve an appropriation or expenditure that would cause a county or city to exceed the limit set by this subsection.

(g) Repealed by Session Laws 1989, c. 374, s. 1.

(h) Economic Development Agreement. – Each economic development agreement entered into between a private enterprise and a city or county shall clearly state their respective responsibilities under the agreement. Each agreement shall contain provisions regarding remedies for a breach of those responsibilities on the part of the private enterprise. These provisions shall

include a provision requiring the recapture of sums appropriated or expended by the city or county upon the occurrence of events specified in the agreement. Events that would require the city or county to recapture funds would include the creation of fewer jobs than specified in the agreement, a lower capital investment than specified in the agreement, and failing to maintain operations at a specified level for a period of time specified in the agreement. (1973, c. 803, s. 37; 1985, c. 639, s. 1; 1985 (Reg. Sess., 1986), c. 846, s. 1; c. 848, s. 1; c. 858, s. 1; c. 911, s. 1; c. 921, s. 1; 1987, c. 577, s. 1.1; 1989, c. 374, s. 1; 1991, c. 598, s. 6; c. 659, ss. 1, 2; 1991 (Reg. Sess., 1992), c. 793, s. 1; c. 799, s. 1; c. 938, s. 1; 1993, c. 31, s. 1; c. 42, s. 1; c. 246, ss. 1(a), 1(b); c. 275, s. 2; c. 358, s. 13; c. 497, ss. 22, 24; c. 536, ss. 1, 4; 2007-515, ss. 1, 7; 2011-401, s. 3.24; 2015-277, s. 1; 2019-112, s. 1.)

### **§ 158-7.2. Accounting for expenditures.**

In the event funds appropriated for the purposes of this Article are turned over to any agency or organization other than the county or city for expenditure, no such expenditure shall be made until the county or city has approved the same, and all such expenditures shall be accounted for by the agency or organization at the end of the fiscal year for which they were appropriated. (1973, c. 803, s. 38.)

### **§ 158-7.3. Development financing.**

(a) Definitions. – The following definitions apply in this section:

(1) Development project. – A capital project that includes capital expenditures by both private persons and one or more units of local government and that increases net employment opportunities for residents of the development district or within a two-mile radius of the project, whichever is larger, and increases the local government tax base.

If the district in which such a project will occur is outside a city's central business district (as that district is defined by resolution of the city council, which definition is binding and conclusive), then, of the private development forecast for a development project by the development financing plan for the district in which the project will occur, a maximum of twenty percent (20%) of the plan's estimated square footage of floor space may be proposed for use in retail sales, hotels, banking, and financial services offered directly to consumers, and other commercial uses other than office space. The twenty percent (20%) limitation in the preceding sentence does not apply to development financing districts located in a development tier one area, as defined in G.S. 143B-437.08 and created primarily for tourism-related economic development, such as developments featuring facilities for exhibitions, athletic and cultural events, show and public gatherings, racing facilities, parks and recreation facilities, art galleries, museums, and art centers.

(2) Publish. – Insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the unit is located.

(3) Unit or unit of local government. – A county, city, town, or incorporated village.

(b) Authorization. – A unit of local government may finance public improvements that are part of a development project with the proceeds of project development financing debt instruments, issued pursuant to Article 6 of Chapter 159 of the General Statutes, together with any other revenues that are available to the unit. Before it receives the approval of the Local Government Commission for issuance of project development financing debt instruments, the

unit's governing body must define a development financing district and adopt a development financing plan for the district. The county may act jointly with a city to finance a project, define a development financing district that is within the city, and adopt a development financing plan for the district.

(c) Development Financing District. – A development financing district created pursuant to this section must be comprised of property that is one or more of the following:

- (1) Blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth.
- (2) Appropriate for rehabilitation or conservation activities.
- (3) Appropriate for the economic development of the community.

The total land area within development financing districts in a unit, including development financing districts created pursuant to G.S. 160A-515.1, may not exceed five percent (5%) of the total land area of the unit. For the purposes of this section, land in a district created by a county that subsequently becomes part of a city, town, or incorporated village does not count against the five-percent (5%) limit for the city, town, or incorporated village unless the city, town, or incorporated village and the county have entered into an agreement pursuant to G.S. 159-107(e). A county may not include in a district created pursuant to this section any land that, at the time the district is created, is inside a city, town, or incorporated village.

(d) Development Financing Plan. – The development financing plan must include all of the following:

- (1) A description of the boundaries of the development financing district.
- (2) A description of the proposed development of the district, both public and private.
- (3) The costs of the proposed public activities.
- (4) The sources and amounts of funds to pay for the proposed public activities.
- (5) The base valuation of the development financing district.
- (6) The projected incremental valuation of the development financing district.
- (7) The estimated duration of the development financing district.
- (8) A description of how the proposed development of the district, both public and private, will benefit the residents and business owners of the district in terms of jobs, affordable housing, or services.
- (9) A description of the appropriate ameliorative activities which will be undertaken if the proposed projects have a negative impact on residents or business owners of the district in terms of jobs, affordable housing, services, or displacement.
- (10) A requirement that the initial users of any new manufacturing facilities that will be located in the district and that are included in the plan will comply with the wage requirements referred to in subsection (e) of this section.

(e) Wage Requirements. – A development financing plan shall include a requirement that the initial users of a new manufacturing facility to be located in the district and included in the plan must pay its employees an average weekly manufacturing wage that is either above the average manufacturing wage paid in the county in which the district will be located or not less than ten percent (10%) above the average weekly manufacturing wage paid in the State. The plan may include information on the wages to be paid by the initial users of a new manufacturing facility to its employees and any provisions necessary to implement the wage requirement. The issuing unit's governing body shall not adopt a plan until the Secretary of Commerce certifies that the Secretary

has reviewed the average weekly manufacturing wage required by the plan to be paid to the employees of a new manufacturing facility and has found either (i) that the wages proposed by the initial users of a new manufacturing facility are in compliance with the amount required by this subsection or (ii) that the plan is exempt from the requirement of this subsection. The Secretary of Commerce may exempt a plan from the requirement of this subsection if the Secretary receives a resolution from the issuing unit's governing body requesting an exemption from the wage requirement and a letter from an appropriate State official, selected by the Secretary, finding that unemployment in the county in which the proposed district is to be located is especially severe. Upon the creation of the district, the unit of local government proposing the creation of the district shall take any lawful actions necessary to require compliance with the applicable wage requirement by the initial users of any new manufacturing facility included in the plan; however, failure to take such actions or obtain such compliance shall not affect the validity of any proceedings for the creation of the district, the existence of the district, or the validity of any debt instruments issued under Article 6 of Chapter 159 of the General Statutes. All findings and determinations made by the Secretary of Commerce under this subsection shall be binding and conclusive. For purposes of this section, the term "manufacturing facility" means any facility that is used in the manufacturing or production of tangible personal property, including the processing resulting in a change in the condition of the property.

(f) County Review. – If the unit creating a development financing district and adopting a development financing plan is a city, town, or incorporated village, before adopting the plan the unit's governing body shall send notice of the plan, by first-class mail, to the board of county commissioners of the county or counties in which the development financing district is located. The person mailing the notice shall certify that fact, and the date thereof, to the governing body, and the certificate is conclusive in the absence of fraud. Unless the board of county commissioners (or either board, if the district is in two counties) by resolution disapproves the proposed plan within 28 days after the date the notice is mailed, the governing body may proceed to adopt the plan.

(g) Environmental Review. – Before adopting a plan for development financing districts, the issuing unit's governing body shall submit the plan to the Secretary of Environmental Quality to review to determine if the construction and operation of any new manufacturing facility in the district will have a materially adverse effect on the environment and whether the company that will operate the facility has operated in substantial compliance with federal and State laws, regulations, and rules for the protection of the environment. If the Secretary finds that the new manufacturing facility will not have a materially adverse effect on the environment and that the company that will operate the facility has operated other facilities in compliance with environmental requirements, the Secretary shall approve the plan. In making the determination on environmental impact, the Secretary shall use the same criteria that apply to the determination under G.S. 159C-7 of whether an industrial project will have a materially adverse effect on the environment. The findings of the Secretary are conclusive and binding.

(h) Plan Adoption. – Before adopting a plan for a development financing district, the issuing unit's governing body shall hold a public hearing on the plan. The governing body shall, no more than 30 days and no less than 14 days before the day of the hearing, cause notice of the hearing to be published once and shall cause notice of the hearing to be mailed, by first-class mail, to all property owners and mailing addresses of the development financing district and to the governing body of any special district, as defined by G.S. 159-7, within which the development financing district is located. The notice shall state the time and place of the hearing, shall specify its

purpose, and shall state that a copy of the proposed plan is available for public inspection in the office of the unit's clerk. At the public hearing, the governing body shall hear anyone who wishes to speak with respect to the proposed district and proposed plan. Unless a board of county commissioners or the Secretary of Environmental Quality has disapproved the plan pursuant to subsection (f) or (g) of this section, the governing body may adopt the plan, with or without amendment, at any time after the public hearing. However, the plan and the district do not become effective until the unit's application to issue project development financing debt instruments has been approved by the Local Government Commission, pursuant to Article 6 of Chapter 159 of the General Statutes.

(i) Plan Modification. – Subject to the limitations of this subsection, a governing body may, after the effective date of the district, amend a development financing plan adopted for a development financing district. Before making any amendment, the governing body shall follow the procedures and meet the requirements of subsections (e) through (h) of this section. The boundaries of the district may be enlarged only during the first five years after the effective date of the district and only if the area to be added has been or is about to be developed and the development is primarily attributable to development that has occurred within the district, as certified by the Local Government Commission. The boundaries of the district may be reduced at any time, but the unit may agree with the holders of any project development financing debt instruments to restrict its power to reduce district boundaries.

(j) Plan Implementation. – In implementing a development financing plan, a unit may act directly, through one or more contracts with other public agencies, through one or more contracts with private agencies, or by any combination thereof. A private agency that enters into a contract with a unit for the implementation of a development financing plan is subject to the provisions of Article 8 of Chapter 143 of the General Statutes only to the extent specified in the contract. (2003-403, s. 19; 2005-238, s. 1; 2005-407, s. 1; 2006-211, s. 3; 2006-252, s. 2.10; 2015-241, s. 14.30(v).)

#### **§ 158-7.4. Interlocal agreements concerning economic development.**

(a) Any two or more units of local government may enter into contracts or agreements to execute undertakings pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, under which each participating local government agrees to provide resources for the development of an industrial or commercial park or industrial or commercial site pursuant to G.S. 158-7.1. In consideration for that participation, the unit or units in which the park or site is located may agree to place the proceeds from some or all property taxes levied on the park or site into a common fund or transfer those proceeds to a nonprofit corporation or other entity. The proceeds placed into the common fund or transferred to the other entity may then be distributed among the participating local governments as provided in the contract or agreement.

(b) Any undertaking entered into pursuant to this section may be for that period that is agreed to by the participating local governments, up to a maximum of 99 years.

(c) Any undertaking entered into pursuant to this section is binding upon each participating local government for the duration of the contract or agreement. Any participating local government may bring an action to specifically enforce the contract or agreement. (2003-417, s. 2; 2005-72, s. 1.)