

## Article 13.

### Joint Legislative Commission on Governmental Operations.

#### **§ 120-71. Legislative findings; creation of Commission.**

(a) The General Assembly finds that the scope, cost, and complexity of State and local government operations require continual review and evaluation by those charged with the responsibility for making public policy decisions and deciding on the appropriation of State funds. It is imperative that members of the General Assembly have the resources to determine whether the public service needs of the citizens of this State are being met and have mechanisms to collect evidence as to whether public policy and appropriations have resulted in expected program benefits. Legislative examination and review of public policies and expenditures are an integral part of legislative duties and responsibilities and therefore should be strengthened.

(b) In order to undertake the ongoing examination, evaluation, and investigation of State agencies, public authorities, units of local government, and non-State entities receiving public funds, and of their actual effectiveness in implementing public policy or providing public services, there is hereby established the Joint Legislative Commission on Governmental Operations which shall have the powers and duties as provided in this Article. (1975, c. 490; 2023-134, s. 27.10(b).)

#### **§ 120-72. Definitions.**

The following definitions apply in this Article:

- (1) Agency employee. – Defined in G.S. 120-131.1.
- (2) Commission. – The Joint Legislative Commission on Governmental Operations.
- (3) Commission staff. – A legislative employee whose primary responsibility is to provide professional or administrative services to the Commission.
- (4) Document. – Defined in G.S. 120-129.
- (5) Legislative employee. – Defined in G.S. 120-129.
- (6) Local funds. – Any moneys held by a unit of local government or a public authority except moneys deposited in a trust fund.
- (7) Non-state entity. – A unit of local government, a public authority, or an individual, firm, partnership, association, or corporation, or any other private organization or group acting as a unit.
- (8) Program. – A specific activity or set of activities established or described by law, administrative rule, executive order, policy, or local ordinance.
- (9) Public authority. – Defined in G.S. 143C-1-1.
- (10) Public funds. – State funds, local funds, or both. The term does not apply to State funds or local funds received by a non-State entity that is an individual, a firm, a partnership, an association, a corporation, or any other private organization or group acting as a unit unless the non-State entity received the funds to (i) conduct a program or (ii) provide a service to a State agency, a unit of local government, or a public authority.
- (11) State agency. – A unit of the executive, legislative, or judicial branch of State government, such as a department, institution, division, commission, board, council, community college, or The University of North Carolina.
- (12) State funds. – Defined in G.S. 143C-1-1.
- (13) Unit of local government. – Defined in G.S. 143C-1-1. (1975, c. 490; 2023-134, s. 27.10(b).)

**§ 120-73. Repealed by Session Laws 2023-134, s. 27.10(a), effective October 3, 2023.**

**§ 120-74. Appointment of members; terms of office.**

The Commission shall consist of 42 members. The President pro tempore of the Senate, the Speaker pro tempore of the House, the Deputy President pro tempore of the Senate, the Majority Leader of the House of Representatives, and the Majority Leader of the Senate and the Speaker of the House shall serve as ex officio members of the Commission. The Speaker of the House of Representatives shall appoint 21 members from the House, at least five of whom are members of the minority party. The President pro tempore of the Senate shall appoint 21 members from the Senate, at least five of whom are members of the minority party. A quorum of the Commission shall be a majority of its members. Vacancies created by resignation or otherwise shall be filled by the original appointing authority. Members shall serve two-year terms beginning and ending on January 15 of the odd-numbered years. Members shall not be disqualified from completing a term of service on the Commission because they fail to run or are defeated for reelection. Resignation or removal from the General Assembly shall constitute resignation or removal from membership on the Commission. (1975, c. 490; 1977, c. 988, s. 1; 1979, c. 932, s. 9; 1981, c. 859, s. 85; 1985, c. 757, s. 142(a)-(c); 1991, c. 72, s. 1; 1995, c. 542, s. 24.1(a); 1997-495, s. 92; 1999-405, s. 1; 1999-431, s. 3.5(a); 2001-486, s. 2.6; 2011-291, s. 1.2(c); 2021-90, s. 20(a).)

**§ 120-75. Organization of the Commission; subcommittees.**

(a) The President pro tempore of the Senate and the Speaker of the House of Representatives shall serve as cochair of the Commission. Either of the cochair may call a meeting of the Commission.

(b) In addition to the provisions of G.S. 120-19.7, the cochair of the Commission may jointly authorize, in writing, subcommittees which shall have the power to conduct hearings, call witnesses, and inquire into any matters properly before the Commission. The cochair of the Commission shall appoint members of a subcommittee. The President Pro Tempore of the Senate shall appoint the Senate cochair, and the Speaker of the House of Representatives shall appoint the House cochair of a subcommittee. Either cochair of a subcommittee may call a meeting of the subcommittee. A quorum of a subcommittee shall be a majority of its members. A member of the House of Representatives or the Senate may be appointed to a subcommittee, even if the member has not been appointed to the Commission. A duly constituted subcommittee shall have all the powers of the Commission and may utilize Commission staff. Members of a subcommittee shall receive subsistence and travel expenses as provided in G.S. 120-78. Members of a subcommittee serve at the pleasure of the appointing officer. The cochair may dissolve a subcommittee of the Commission at any time. (1975, c. 490; 1977, c. 988, s. 2; 1981, c. 859, s. 86; 1991, c. 72, s. 2; 2021-90, s. 20(b); 2023-134, s. 27.10(b).)

**§ 120-75.1. Powers and duties.**

The Commission shall have the following powers and duties:

- (1) To study the efficiency, economy, and effectiveness of any State agency, public authority, unit of local government, or non-State entity receiving public funds.
- (2) To evaluate the implementation of public policies, as articulated by enacted law, administrative rule, executive order, policy, or local ordinance, by any State

agency, public authority, unit of local government, or non-State entity receiving public funds.

- (3) To investigate possible instances of misfeasance, malfeasance, nonfeasance, mismanagement, waste, abuse, or illegal conduct by the following:
  - a. Officers and employees of a State agency, public authority, or unit of local government, as it relates to the officer's or employee's performance of his or her public duties.
  - b. Officers and employees of a non-State entity receiving, directly or indirectly, public funds, as it relates to the officer's or employee's responsibilities regarding the receipt of public funds.
- (4) To receive reports as required by law or as requested by the Commission.
- (5) To make periodic reports, including recommended legislation to the General Assembly.
- (6) To access and review the following:
  - a. Any documents or records related to any contract awarded by a State agency, including, but not limited to, (i) records related to the drafting and approval of the contract and (ii) documents and records of the contractor that the Commission determines will assist in verifying accounts or will contain data affecting fees or performance.
  - b. Any records related to any subcontract of a contract awarded by a State agency that is utilized to fulfill the contract, including, but not limited to, (i) records related to the drafting and approval of the subcontract and (ii) documents and records of the contractor or subcontractor that the Commission determines will assist in verifying accounts or will contain data affecting fees or performance. (2023-134, s. 27.10(b).)

**§ 120-76. Repealed by Session Laws 2023-134, s. 27.10(a), effective October 3, 2023.**

**§ 120-76.1. Prior consultation with the Commission; reporting requirements.**

- (a) The Governor shall consult the Commission before doing any of the following:
  - (1) Authorizing expenditures in excess of the total requirements of a purpose or program as enacted by the General Assembly and as provided by G.S. 143C-6-4.
  - (2) Proceeding to reduce programs subsequent to a reduction of ten percent (10%) or more in the federal fund level certified to a department and any subsequent changes in distribution formulas.
  - (3) Taking measures under Article III, Section 5(3) of the North Carolina Constitution to effect necessary economies in State expenditures required for balancing the budget due to a revenue shortfall, including, but not limited to, (i) making loans among funds, (ii) personnel freezes or layoffs, (iii) capital project reversions, (iv) program eliminations, and (v) use of reserves. However, if the Commission fails to meet within 10 calendar days of a request from the Governor for its consultation, the Governor may proceed to take the actions the Governor deems appropriate and necessary and shall then report those actions at the next meeting of the Commission.

- (4) Approving a new capital improvement project funded from gifts, grants, receipts, special funds, self-liquidating indebtedness, and other funds or any combination of funds for the project not specifically authorized by the General Assembly. The budget for each capital project must include projected revenues in an amount not less than projected expenditures.

(a1) Notwithstanding the provisions of subdivision (1) of subsection (a) of this section, whenever the Governor determines that an expenditure is required because of an emergency as that term is defined in G.S. 166A-19.3(6), the Governor may take action without consulting the Commission if the Governor determines the expenditure is directly related to the emergency. The Governor shall report to the Commission on any expenditures made under this subsection no later than 30 days after making the expenditure and shall identify in the report the emergency, the expenditure, how the funds were used, and how the use of the funds was related to the emergency. To the extent it may apply, this subsection does not supersede the requirements of G.S. 166A-19.30(b).

(b) Any agency, board, commission, or other entity required by any provision of law to consult with the Commission prior to taking an action shall submit a detailed report of the action under consideration to the Chairs of the Commission. If the Commission does not hold a meeting to hear the consultation within 90 days of receiving the submission of the detailed report, the consultation requirement is satisfied. With regard to capital improvement projects of The University of North Carolina, if the Commission does not hold a meeting to hear the consultation within 30 days of receiving the submission of the detailed report, the consultation requirement of subdivision (4) of subsection (a) of this section is satisfied.

(c) Consultations regarding the establishment of new fees and charges and the increase of existing fees and charges are governed by G.S. 12-3.1, and this section does not apply to those consultations. (1996, 2nd Ex. Sess., c. 18, s. 7.4(a); 2005-276, s. 6.7(a); 2007-322, s. 10; 2011-291, s. 1.2(e); 2023-134, s. 27.10(b).)

#### **§ 120-77. Additional powers; confidentiality; penalties.**

(a) The Commission shall have the power to compel the following in the discharge of its duties under this Article:

- (1) Access to any document or system of record held by a:
  - a. State agency pursuant to the provisions of G.S. 120-19.
  - b. Unit of local government or public authority.
  - c. A non-State entity receiving, directly or indirectly, public funds, to the extent the documents relate to the receipt, purpose, or implementation of a program or service paid for with public funds.
- (2) Attendance of any officer or employee of any:
  - a. State agency.
  - b. Unit of local government or public authority.
  - c. Non-State entity receiving public funds provided the officer or employee is responsible for implementing a program or providing a service paid for with public funds.

(b) Unless prohibited by federal law, the Commission and Commission staff shall be provided access to all of the following in the discharge of their duties under this Article:

- (1) Any building or facility allocated to or leased by a State agency.

- (2) Any building or facility owned or leased by a unit of local government or public authority.
- (3) Any building or facility owned or leased by a non-State entity receiving public funds provided (i) the building or facility is used to implement a program or provide a service paid for with public funds and (ii) the access is reasonably related to the receipt, purpose, or implementation of a program or service paid for with public funds.
- (c) The Commission cochairs shall each designate one Commission staff member who shall have access to the BEACON/HR payroll system.
- (d) Any confidential information obtained by the Commission shall remain confidential and is not a public record as defined in G.S. 132-1.
- (e) Any document or information obtained or produced by Commission staff in furtherance of staff's duties to the Commission is confidential and is not a public record as defined in G.S. 132-1.
- (f) Any request made to an agency employee by Commission staff and any communication between Commission staff and an agency employee is confidential. An agency employee shall treat as confidential to a member of Commission staff any request from and any communication with the member. The nature and existence of the request and communications shall only be revealed by an agency employee to another agency employee to the extent that it is necessary to fulfill a request for document production or to gather more information as requested by the member of Commission staff. A violation of this subsection by an agency employee shall be grounds for disciplinary action, including dismissal.
- (g) A person who conceals, falsifies, or refuses to provide to the Commission any document, information, or access to any building or facility as required by this Article with the intent to mislead, impede, or interfere with the Commission's discharge of its duties under this Article shall be guilty of a Class 2 misdemeanor.
- (h) The provisions of G.S. 120-19.1 through 120-19.4 shall apply to the proceedings of the Commission as if it were a joint committee of the General Assembly. (1975, c. 490; 1977, c. 344, s. 1; 2022-6, s. 15.2; 2023-134, s. 27.10(b).)

**§ 120-78. Compensation and expenses of Commission member; staffing.**

Members of the Commission or a subcommittee of the Commission who are also members of the General Assembly, shall receive subsistence and travel expenses at the rates set forth in G.S. 120-3.1 for General Assembly members. The Commission shall be funded by the Legislative Services Commission from appropriations made to the General Assembly for that purpose.

Commission staff are not subject to the State Budget Act or to the North Carolina Human Resources Act. (1975, c. 490; 1977, c. 988, s. 3; 1991, c. 72, s. 3; 2023-134, s. 27.10(b).)

**§ 120-79. Repealed by Session Laws 2023-134, s. 27.10(a), effective October 3, 2023.**

**§§ 120-80 through 120-84. Reserved for future codification purposes.**