Article 32.

Transitions for Unsustainable Cities.

Part 1. General Provisions.

§ 160A-825. Purpose of Article; definition.

(a) The purpose of this Article is to provide a process for a city in financial distress to transition out of that distress either on its own initiative or with assistance from or under the direction of the Local Government Commission.

(b) For purposes of this Article, the following terms shall apply:

(1) City. – As defined in G.S. 160A-1.

(2) Commission. – The Local Government Commission.

(3) Council. – As defined in G.S. 160A-1. (2021-124, s. 6.)

Part 2. Transition Initiation by Local Government Commission.

§ 160A-831. Initiation of process.

(a) The process established by this Article to rehabilitate a city's financial affairs may be initiated by the Commission. The Commission shall establish criteria for evaluating a city for financial rehabilitation under this Article.

(b) The Commission shall apply those criteria to each city with respect to which the Commission has exercised its authority under G.S. 159-181(c) and each city with respect to which the Commission has received a referral from any of the following persons:

(1) The State Auditor.

(2) The Department of Environmental Quality.

(3) The city's auditor for the current or most recent annual audit.

(c) After application and review of the criteria established under this section, the Commission shall make a determination whether or not the city shall be subject to this Part and shall so notify the mayor, council, and city finance officer within 10 days of such determination. (2021-124, s. 6.)

§ 160A-833. Assessment of services and financial affairs.

(a) Upon initiation of the process under G.S. 160A-831, the city shall cooperate and provide information to the Commission to assess the city's financial affairs. The assessment shall include a review of all of the following:

(1) The revenues of the city.

(2) The future revenue forecast of the city.

(3) The real property owned by the city, including the amounts of any outstanding debt associated with that real property.

(4) The contractual obligations of the city.

(5) Any internal control matters highlighted in prior audits and the city's ongoing responses to those matters.

(6) The outstanding debts of the city.

(7) Any public enterprise accounts.

(8) The general fund balance.

(9) Any other information requested by the Commission.

(b) Upon initiation of the process under G.S. 160A-831, the city shall prepare a report for its citizens and the Commission on the status of any of the following services provided by that city which shall include the costs of those services over the five most recent fiscal years, any revenues

from those services over the five most recent fiscal years, the time period that service has been provided, and any other information required by the Commission:

(1) Any public enterprise, whether owned, operated, or contracted by the city.
(2) Fire protection.
(3) Law enforcement.
(4) Building inspection.
(5) Streets, lighting, and sidewalks.
(6) Land use regulation.
(7) Buildings, facilities, and property owned or leased by the city.
(8) Parks and recreation.
(9) Public libraries.
(10) Animal control.
(11) Any other amenities provided by the city.

(c) The report required by subsection (b) of this section shall be remitted to the Commission no more than 90 days after initiation under G.S. 160A-831, shall be presented to the council at a regular meeting of the council no more than 60 days after remittance to the Commission, and shall be made available to the public. A copy of the report shall be delivered to the board or boards of county commissioners in which the city lies prior to the regular meeting of the council during which the report is presented.

(d) If the Commission determines that preparing the report under subsection (b) of this section presents a substantial hardship on a city, the Commission may prepare the report on behalf of the city. Reports prepared by the Commission shall be completed within 90 days of the hardship determination and presented to the council at a regular meeting of the council no more than 60 days after the report is completed. The report shall be made available to the public. A copy of the report shall be delivered to the board or boards of county commissioners in which the city lies prior to the regular meeting of the council during which the report is presented. (2021-124, s. 6.)

§ 160A-841. Local Government Commission control.

(a) If the Commission determines a city should be subject to this Part but the Commission has not exercised its authority under G.S. 159-181(c) after completion of the financial assessment and receipt or completion of the report required by G.S. 160A-833, the Commission may impound the books and records of the city and assume full control of all its financial affairs. If the Commission exercises its authority under this section, the Commission is vested with all of the powers of the council as to the levy of taxes, expenditure of money, adoption of budgets, and all other financial powers conferred upon the council by law.

(b) When the Commission exercises its authority under G.S. 159-181(c) or subsection (a) of this section with respect to a city subject to this Part, the council shall continue to be vested with all other powers of the city, such as land use regulation, not assumed by the Commission. The council shall have no authority to implement any new service or other amenity unless specifically approved by the Commission.

(c) Regardless of whether the Commission exercises its authority under G.S. 159-181(c) or subsection (a) of this section, a city subject to this Part shall cooperate with the Commission to identify options to address deficiencies in the city's financial affairs, to identify potential partners to assist the city in the continuation of the provision of services to its citizens, and to educate the council and the citizens on merger with other local government partners. A city that fails to

cooperate under this section is subject to those enforcement actions under Article 11 of Chapter 159 of the General Statutes.

(d) Subsection (a) of this section shall not apply to contractual obligations undertaken by the city in a debt instrument issued pursuant to Chapter 159G of the General Statutes unless such debt instrument is secured by a pledge of the faith and credit of the city. (2021-124, s. 6.)

§ 160A-845. Reassessment of financial status.

(a) After the first fiscal year of cooperation with the Commission, and every year thereafter, the council shall reassess its financial affairs with the assistance of the Commission. Upon completion of the reassessment, the Commission shall make a recommendation to the city as to whether or not the city's financial affairs are sufficiently stable to permit the city to continue operations.

(b) If the Commission finds that the city's financial affairs for three consecutive fiscal years are sufficiently stable to continue operations, the Commission shall relinquish any authorities exercised under G.S. 159-181 or G.S. 160A-841 with respect to that city.

(c) Notwithstanding subsection (a) of this section, if at any time the Commission finds that the city's financial affairs are not sufficiently stable to continue operations, the Commission may exercise, or continue to exercise, its authority under this Part and begin to identify local government partners for merger or dissolution of the city. (2021-124, s. 6.)

§ 160A-848. Distribution of services, assets, liabilities, and other obligations.

(a) Upon a determination under G.S. 160A-845(c), the city shall work with the Commission to identify local government partners able to provide the services identified by the city as necessary for its citizens. The city shall, after negotiating its terms, enter into interlocal agreements with any local government partner willing to provide one or more of those services.

(b) In negotiating interlocal agreements under subsection (a) of this section, the city shall work with the Commission to identify local government partners, whether any other county, city, or consolidated city-county with whom to merge assets, liabilities, and other obligations of the city. Upon Commission determination it is in the best interest of the people of the city and State, the Commission may adopt a resolution to transfer the assets, liabilities, and other obligations to the local government partner and dissolve the city.

(c) Upon the adoption of a resolution under subsection (b) of this section by the Commission, the effective date for transfer and dissolution shall be fixed in the resolution as the first June 30 that is at least six months following the adoption of the resolution. (2021-124, s. 6.)

§ 160A-850. Effect of merger or dissolution.

(a) Upon adoption of the resolution of transfer and dissolution by the Commission under G.S. 160A-848, all of the following shall apply on the effective date set forth in the resolution of transfer and dissolution:

(1) All property, real, personal, and mixed, including accounts receivable, belonging to the dissolving city shall be transferred, disposed of, or otherwise accounted for as provided in the resolution of transfer and dissolution.

(2) All judgments, liens, rights of liens, and causes of action of any nature in favor of the dissolving city shall vest in and remain and inure to the benefit of the local government partner as provided in the resolution of transfer and dissolution.

(3) All taxes, assessments, sewer charges, and any other debts, charges, or fees owing to the dissolving city shall be owed to and collected as provided in the resolution of transfer and dissolution.

(4) All actions, suits, and proceedings pending against, or having been instituted by the dissolving city shall not be abated by merger, but all such actions, suits, and proceedings may be continued and completed in the manner stated in the resolution of transfer and dissolution if that resolution states which local government partner shall be a party to all such actions, suits, and proceedings in the place and stead of the dissolving city. No new process is required to be served in any such action, suit, or proceeding.

(5) All obligations of the dissolving city, including outstanding indebtedness, shall be assumed as provided in the resolution of transfer and dissolution, and all such obligations and outstanding indebtedness shall constitute obligations and indebtedness as provided in the resolution of transfer and dissolution.

(6) All ordinances, regulations, and policies of the dissolving city shall be void on the effective date of the dissolution.

(7) The dissolving city shall be abolished and shall no longer be constituted a public body or a body politic and corporate, except for purposes of carrying into effect the provisions and intent of this section.

(b) The Commission is authorized to take the actions and execute the documents necessary to effectuate the provisions and intent of this section.

(c) As used in this section, "dissolving city" shall mean a city dissolved by resolution of transfer and dissolution under G.S. 160A-848. (2021-124, s. 6.)

§ 160A-853. Action by the General Assembly.

A resolution of transfer and dissolution by the Commission under G.S. 160A-848 remains in effect unless it is specifically disapproved by the General Assembly in a bill enacted into law on or before the effective date of the resolution. A resolution of transfer and dissolution that is specifically disapproved in accordance with this section is repealed as of the date specified in the act. (2021-124, s. 6.)

Part 3. Transition Initiated by City.

§ 160A-860. Initiation of voluntary dissolution.

Any city may initiate administrative dissolution in accordance with this Part by adoption of a resolution of intent. Such resolution of intent shall be adopted at a regular meeting of the city. A copy of the adopted resolution of intent shall be delivered to the Commission and the county or counties in which the city lies. (2021-124, s. 6.)

§ 160A-862. Impact statement.

(a) Within 90 days of the adoption of a resolution of intent to dissolve, the council shall release an impact statement to educate the city residents of the potential ramifications of dissolution. The impact statement shall be filed in the office of the city clerk where it shall remain available for public inspection. The clerk shall make a copy of the impact statement available to all news media in the county or counties in which the city lies. The clerk shall also publish a statement that the impact statement has been prepared and is available for public inspection in the office of

the clerk. The published statement shall also give notice of the time and place of the public hearing required by G.S. 160A-864.

(b) The impact statement shall include at least all of the following:

(1) For each of the services below provided by that city, the costs of those services over the two most recent fiscal years, any revenues resulting from those services over the two most recent fiscal years, how long each service has been provided, and any other relevant information:

a. Any public enterprise, whether owned, operated, or contracted by the city.
b. Fire protection.
c. Law enforcement.
d. Building inspection.
e. Streets, lighting, and sidewalks.
f. Land use regulation.
g. Buildings, facilities, and property owned or leased by the city.
h. Parks and recreation.
i. Public libraries.
j. Animal control.
k. Any other amenities provided by the city.

(2) Information for the two most recent fiscal years on the following:

a. The revenues of the city.
b. With respect to real property owned by the city, the amounts of any outstanding debt associated with that real property.
c. The contractual obligations of the city.
d. The outstanding debts of the city.
e. Any public enterprise accounts.
f. Ending fund balance.

(3) The future revenue forecast of the city for at least the next two fiscal years.

(4) Any ongoing litigation in which the city is a defendant.

(c) Upon adoption of the resolution of intent to dissolve, the impact statement and a copy of the adopted resolution of intent to dissolve shall be posted on the city's website, if any, in a conspicuous placement. (2021-124, s. 6.)

§ 160A-864. Public hearings on proposed dissolution.

(a) The council shall conduct at least two public hearings, at regular council meetings, on the matter of the proposed dissolution of the city. The first public hearing shall be no less than 45 days after the filing of the impact statement with the city clerk and no more than 90 days after the filing of the impact statement with the city clerk.

(b) The second public hearing shall be no less than 45 days after the first public hearing and no more than 180 days after the first public hearing.

(c) The council may conduct additional public informational meetings or public hearings about the proposed dissolution at any time.

(d) Notice of the two required public hearings under this section shall be published at least once per week for two consecutive weeks, with each publication being on the same day of the week, in a newspaper of general circulation. The date of the last publication shall not be more than 10 days before the date fixed for the hearing. The notice shall also include information on how to

obtain or inspect a copy of the impact statement prepared in accordance with G.S. 160A-827. (2021-124, s. 6.)

§ 160A-866. Plan of action; Local Government Commission approval.

(a) Prior to adopting a resolution to dissolve under G.S. 160A-868, the council must develop a plan of action to distribute all assets and liabilities of the city, and that plan must be approved by the Commission. However, the council may, at a regular meeting separate and apart from any public hearings required to be conducted by G.S. 160A-864, adopt a resolution to request the assistance of the Commission to develop the plan of action.

(b) The council shall assist the Commission with any information, cooperation, coordination, or other action needed by the Commission in assessing and considering the plan of action. The Commission may modify the plan of action prior to approval.

(c) Upon notification from the Commission that the Commission has approved the plan of action, the approved plan of action shall be presented at a regular meeting of the council. (2021-124, s. 6.)

§ 160A-868. Resolution to dissolve; public hearing.

(a) After the plan of action has been presented as required under G.S. 160A-866, the council shall conduct a public hearing on whether to adopt a resolution to dissolve the city in accordance with the plan of action. Notice of the public hearing shall be published at least once per week for two consecutive weeks, with each publication being on the same day of the week, in a newspaper of general circulation. The date of the last publication shall not be more than 10 days before the date fixed for the hearing.

(b) At a regular meeting of the council separate and apart from the date of the public hearing required by this section, the council may adopt a resolution to dissolve the city. (2021-124, s. 6.)

§ 160A-870. Citizen petition for referendum on dissolution.

(a) The people may initiate a referendum on the resolution to dissolve the city by submitting a petition bearing the signatures and resident addresses of a number of qualified voters of the city equal to at least twenty-five percent (25%) of the whole number of voters who are registered to vote in city elections according to the most recent figures certified by the State Board of Elections. This petition must be submitted to the city clerk no later than 45 days after adoption of the resolution to dissolve the city. Upon receipt of a valid initiative petition, the council shall cease any action in furtherance of implementing the plan of action, call a special election on the question of dissolving the city, and shall give public notice in accordance with G.S. 163-287. The date of the special election shall be fixed on a date permitted by G.S. 163-287.

(b) A referendum to dissolve the city shall be printed on the ballot in substantially the following form:

"Shall (name of city) be dissolved?
( ) YES
( ) NO"

(c) If a majority of the votes cast on the ballot question shall be in the affirmative, the resolution to dissolve shall be sustained and put into effect as provided in this Part. If a majority of the votes cast shall be against the ballot question, the resolution to dissolve shall be void and of no effect. (2021-124, s. 6.)

§ 160A-872. Dissolution.

After the time for submitting a petition under G.S. 160A-870 has passed and no petition has been submitted or the referendum authorized under this Part was answered in favor of dissolution, the city may implement the plan of action. The effective date of the plan of action to dissolve shall be June 30 following completion of the process established by this Part. Upon completion of the plan of action and written confirmation of its completion from the Commission, the city shall file a copy of the resolution to dissolve with the Commission and the Secretary of State. Upon filing of the resolution to dissolve, the body politic and corporate of the city shall cease to exist. (2021-124, s. 6.)

§ 160A-873. Reserved for future codification purposes.

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