

§ 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).)