



SENATE BILL 473: Enhance Local Gov't Transparency.

2021-2022 General Assembly

Committee:	Senate State and Local Government. If favorable, re-refer to Rules and Operations of the Senate	Date:	April 28, 2021
Introduced by:	Sens. Barnes, Sanderson, Edwards	Prepared by:	Jonathan Zator*
Analysis of:	First Edition		Committee Counsel

OVERVIEW: *Senate Bill 473 would do the following:*

- *Require the State Auditor (Auditor) to notify the Local Government Commission (Commission) when an audit report is the result of an investigation of a unit of local government.*
- *Allow the Commission, following the release of an investigative report, to be involved in that local government's audit process for up to three years.*
- *Require a local finance officer to garnish a board or council member's compensation in order to collect monies owed for unpaid county and city services.*
- *Create a new felony offense for public officers and employees who personally benefit financially from their position.*
- *Define a public officer or employee that is also a director of a nonprofit organization as deriving a benefit from a public agency contract awarded to the nonprofit.*

CURRENT LAW: "The Local Government Budget and Fiscal Control Act," found in Article 3 of Chapter 159 of the General Statutes, "prescribes for local governments and public authorities a uniform system of budget adoption and administration and fiscal control." ([G.S. 159-7\(c\)](#)).

Annual Audits

Each unit of local government must have its accounts audited as soon as possible after the close of each fiscal year. The auditor is selected by and reports directly to the governing board. ([G.S. 159-34](#)).

Wage Garnishment of Elected or Appointed County or City Official

If a city or county finance officer obtains a final judgment awarding monetary damages against an elected or appointed member of the board of commissioners or the city council, he or she may enforce the judgment as if final judgment awarding monetary damages were delinquent taxes and the finance officer were a tax collector. ([G.S. 153A-30](#) and [G.S. 160A-64.1](#)).

Embezzlement

Any officer, agent, or employee of the State who embezzles from the State shall be guilty of a felony. If the property's value is \$100,000 or more, it is a Class C felony. If the property's value is less than \$100,000, it is a Class F felony. (G.S. 14-91 and G.S. 14-92).

BACKGROUND: In May 2020, the Office of the State Auditor completed an investigation of misconduct allegations concerning elected officials and employees in the City of Rocky Mount. A copy of the report can be found [here](#).

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BILL ANALYSIS:

Section 1(a) would require the Auditor to notify the Commission if a published audit report is the result of an investigation of a unit of local government.

Section 1(b) would allow the Commission to select the certified public accountant (CPA) to conduct the annual audit of the governing board's accounts, rather than the governing board, when the Commission has received notice of the release of an investigative report described in Section 1(a). The Commission could exercise this authority for three years after the release of the report. The CPA would report directly to the Commission and governing board, comply with all rules of the Commission, and be paid by the governing board.

Section 1 would be effective when it becomes law and apply to any audit issued by the Auditor on or after that date. At the Commission's discretion, it may use authority established by Section 1(b) with respect to any unit of local government audited by the Auditor on or after July 1, 2018.

Section 2(a) would require a county finance officer to garnish a board member's compensation to collect unpaid monies due for county services until the debt is paid in full.

Section 2(b) would apply the same requirements in Section 2(a) to a city finance officer.

Section 2 would become effective July 1, 2021 and apply to any compensation paid in accordance with G.S. 153A-28 or G.S. 160A-64 on or after that date.

Section 3(a) would create a Class H felony for an elected officer that solicits or receives personal financial gain from the political subdivision for which he or she serves by means of intimidation, undue influence, or misuse of the employees of that subdivision.

Section 4(a) would consider a public officer or employee, who is the director, officer, or governing board member of a nonprofit, or his or her spouse, as deriving a direct benefit from a contract awarded to the nonprofit. A contract would include the award of money from the public agency in the form of a grant, loan, or other appropriation.

Sections 3 and 4 would become effective December 1, 2021 and apply to offenses committed on or after that date.

EFFECTIVE DATE: Except as otherwise provided, this act would be effective when it becomes law.

**Kristen Harris, committee counsel to Senate Judiciary, substantially contributed to this summary.*