

CHAPTER 03 - LOCAL GOVERNMENT COMMISSION

SECTION .0100 - GENERAL PROVISIONS

20 NCAC 03 .0101 ORGANIZATION AND FUNCTIONS

(a) The Local Government Commission operates as a division of the Department of the State Treasurer and is the state's agency charged with the duty of advising and assisting officials of local governments (counties, cities, towns, public authorities, special districts) in all phases of fiscal management. It promotes the efficient use of monetary resources of local governments through sound fiscal management, careful borrowing, and sound debt management practices.

(b) The following is general information about the Local Government Commission:

- (1) The chief officer is the Secretary of the Local Government Commission;
- (2) The mailing address is 3200 Atlantic Avenue, Raleigh, North Carolina 27604; and
- (3) The office is located in the Longleaf Building, 3200 Atlantic Avenue, Raleigh, North Carolina 27604.

(c) The staff of the Local Government Commission is provided by the state and local government finance division.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. October 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0102 DEFINITIONS

The words and phrases defined in this Rule will have the meanings indicated when used in this Chapter, unless the context clearly requires another meaning:

- (1) Commission is the Local Government Commission.
- (2) Secretary is the Secretary of the Local Government Commission.
- (3) Government unit includes "public authority", "special district" and "unit" as defined in G.S. 159-7; "local school administrative unit" as defined in G.S. 115C-5 and wherever applicable "public hospital" as defined in G.S. 159-39.
- (4) "Generally accepted accounting principles" are those accounting principles promulgated by the Governmental Accounting Standards Board (GASB), or, if the GASB has not issued any pronouncements, the accounting principles promulgated by the Financial Accounting Standards Board (FASB), or, if neither the GASB nor FASB has issued any pronouncements, such authoritative literature as may be generally accepted.
- (5) "Generally accepted auditing standards" are the auditing standards contained in the series "Statements on Auditing Standards" published by the American Institute of Certified Public Accountants beginning with statement No. 1 in 1973.

*History Note: Authority G.S. 115C-436(b); 159-3(f); 159-26(e);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. August 1, 1987; April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0103 RULE-MAKING PROCEDURES

(a) 20 NCAC 1F .0100 shall govern the issuance of rules by the Commission.

(b) All correspondence shall be addressed to the Secretary at the mailing address of the Commission.

*History Note: Authority G.S. 150B-11; 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. August 1, 1987;*

Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0104 DECLARATORY RULES

- (a) 20 NCAC 1F .0200 shall govern the issuance of declaratory rules by the Commission.
- (b) All correspondence shall be addressed to the Secretary at the mailing address of the Commission.

*History Note: Authority G.S. 150B-11; 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0105 CONTESTED CASE PROCEDURES

- (a) 20 NCAC 1F .0300 shall govern the hearings and decisions in contested cases.
- (b) All correspondence shall be directed to the Secretary at the mailing address of the Commission.

*History Note: Authority G.S. 150B-11; 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. August 1, 1987;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0106 ADDITIONAL REQUIREMENTS

The Commission or the secretary may, at any time, require from any party alleging a specific interest in an issue additional information, conference or documents when such additional information, conferences or documents will, in their opinion, result in a more equitable resolution of an issue before them.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0107 OTHER REQUESTS FOR ACTION

- (a) This Rule applies in all cases for which specific procedures are not provided elsewhere in this Chapter.
- (b) All requests for action shall be addressed to the Secretary at the mailing address of the Commission.
- (c) Each request for action shall include the following information:
 - (1) cover letter which includes:
 - (A) name and address of the petitioner,
 - (B) brief description of circumstances and action requested,
 - (C) statutory basis for request and for action,
 - (D) signature of petitioner;
 - (2) detailed description of circumstances and reasons for which action is requested;
 - (3) list of all persons (real and corporate) who may be beneficially or adversely affected by any action of the Commission;
 - (4) such other material as may be applicable to the circumstances.
- (d) After receipt of a request, the Secretary shall review the case. The Secretary may require the petitioner to attend an informal conference with the staff of the Commission. The Secretary may require the filing of such additional information as he may consider valuable to the consideration of the issues.
- (e) After receipt of all requested information, the Commission shall consider the issues. This consideration shall use those factors, determined on a case by case basis, which seem applicable to the case. The Commission may hold a public hearing whenever it feels such a hearing will be in the public interest. The Commission shall notify the petitioner and all other parties to the case, in writing, of its decision to approve or to disapprove the request.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0108 STATUS OF MEMORANDA: STATEMENTS AND PUBLICATIONS

(a) The Commission may from time to time issue memoranda, statements and publications for the guidance of local officials and other interested parties. These documents are intended to be explanatory in nature, and not intended to be binding on anyone. They are intended to set forth procedures, etc. which the Commission believes a prudent man would follow under the circumstances outlined in the document and be able to comply with the requirements of good accounting practice, state law and regulations, and any specified federal law and regulations. Care must be taken by each governmental unit that their own specific circumstances are not so different from the normal circumstances that other procedures should be used.

(b) In proceedings before the Commission, the Commission will consider the use of the recommended procedures to be proper and to have been used in good faith unless specific evidence exists to the contrary. The Commission may require written justification for the use of any other procedures which give rise to allegations of impropriety.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0109 ENFORCEMENT PROCEDURES

(a) This Rule shall apply to all enforcement proceedings of the commission under the provisions of Chapter 159 of the General Statutes, including, but not necessarily limited to, G.S. 159-26(c), G.S. 159-33, G.S. 159-36, G.S. 159-37, G.S. 159-39(e), G.S. 159, Article 10, and G.S. 159, Article 11.

(b) Action to enforce a statute shall begin when the Secretary finds that a reasonable cause exists to believe that the provisions of a particular statute have been violated.

(c) Immediately thereafter, the Secretary shall notify the governmental unit or the person involved of the findings of reasonable cause, of the alleged facts of the case and the statute which is alleged to have been violated. The notice shall request an answer to the allegations within 14 days from the mailing date of the notice.

(d) There shall be set up an informal conference between the party(s) notified and the staff of the Commission no later than seven days after the receipt by the Commission of the answer to the allegations. At the conference, the Commission shall try to reach an agreement with the other party(s) in which the act(s) alleged are corrected.

(e) If the answer requested in Paragraph (c) of this Rule is not received by the Commission within the time limit specified or an agreement cannot be reached under Paragraph (d) of this Rule, the Secretary shall submit to the Commission a summary of the findings and events to date together with his suggestion on the proper action to be taken by the Commission.

(f) Whenever he believes it necessary to safeguard assets of a governmental unit, the Secretary may shorten or omit any step of the procedure up to his report of the situation to the Commission.

(g) If the Commission, thereafter, decides to proceed with an action to enforce a statute, the Commission shall proceed under the procedures outlined in 20 NCAC 3 .0105.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0110 MAILING LISTS

(a) The Commission shall maintain the following mailing lists:

- (1) potential bidders for bonds and notes of governmental units,
- (2) active governmental units,
- (3) certified public accountants currently performing audits for governmental units.

(b) The mailing lists in use on January 31, 1976 shall continue in use under this Rule. The Secretary may periodically order the removal of all names on any mailing list which are not active during the preceding 12 month period in the area covered by the mailing list.

(c) Anyone wishing to be added to a list may request the addition by writing to the Secretary at the mailing address of the Commission. When added, such names and addresses shall remain on the subject list for 12 months and thereafter may be removed under Paragraph (b) of this Rule.

(d) The maintenance of mailing lists is intended solely for the convenience of the specific categories of persons on the list. Failure to send any document, notice, etc. to a person on a mailing list shall not be grounds for any action unless such document, notice, etc. was otherwise specifically required by law.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0111 SETTING FEES ON REVENUE BOND APPROVALS

(a) Fees shall be collected for all actions of the Commission in connection with the approval or denial of bonds or notes, or other participation in the sale, award or delivery of bonds or notes except general obligation bonds or notes.

(b) The Secretary shall recommend to the commission from time to time changes in the schedule of fees. To the extent possible the fees recommended shall be the average direct cost to the state for personal and other services rendered on each category of fee to be charged.

(c) Fees shall be payable prior to a final request for approval or participation by the Commission.

*History Note: Authority G.S. 159-6;
Eff. August 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0112 FEES

(a) The following fees shall be charged for services rendered or to be rendered for each category of bonds and notes set forth:

(1)	Bonds sold pursuant to G.S. 159D, Article 2	\$12,500.00
(2)	Bonds sold pursuant to G.S. 131A	\$ 8,750.00
(3)	Bonds sold pursuant to G.S. 159B	\$12,500.00
(4)	Bonds sold pursuant to G.S. 159C (Except for bonds for industrial development or pollution control for which the fee shall be \$2,500.00.)	\$ 6,125.00
(5)	Bonds sold for Industrial Facilities and Pollution Control projects, pursuant to G.S. 159D, Article 1 (per participant)	\$ 2,500.00
(6)	All other bonds sold pursuant to G.S. 159D	\$ 2,500.00
(7)	Bonds sold pursuant to G.S. 159I	\$12,500.00
(8)	All notes issued in anticipation of issuance of a bond for which a fee is set forth herein	\$ 1,250.00
(9)	Revenue bonds sold pursuant to G.S. 159, Article 5 and all other approvals and issues of debt receiving Local Government Commission approval, other than general obligation bonds.	\$12,500.00

(b) In addition to the fees set forth in this Rule, all travel and subsistence and all other expenses, including telephone and postage, incurred shall be for the account of the issuer. When paid by the state, they shall be billed to the issuer.

(c) In addition to expenses pursuant to Paragraph (b) of this Rule, the following fees shall be charged for the services set forth herein:

(1)	Approvals to counties pursuant to G.S. 105-487(c)	\$ 625.00
(2)	Approvals to municipalities pursuant to G.S. 105-487(c)	\$ 625.00
(3)	Approvals of installment purchase contracts under	

(4)	G.S. 160A-20 where no public offering is proposed	\$ 1,250.00
	Approvals of installment purchase contracts under G.S. 160A-20 where a public offering, including certificates of participation, is proposed	\$12,500.00

History Note: Authority G.S. 159-3(f); 159-6;
 Eff. August 1, 1983;
 Amended Eff. January 1, 2011; January 1, 2004; November 1, 1990; August 1, 1987; November 1, 1983;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0200 - APPROVAL OF DEBT OBLIGATIONS

20 NCAC 03 .0201 LIMITS OF RULES: STATUTORY CONTROLS

History Note: Authority G.S. 159-3(f);
 Eff. February 1, 1976;
 Readopted Eff. September 23, 1977;
 Repealed Eff. April 1, 1985.

20 NCAC 03 .0202 APPROVAL OF GENERAL OBLIGATION BONDS

(a) The Secretary may require the governing body and other policy-making officials of the governmental unit to attend a preliminary conference to consider the proposed bond issue. The agenda of a preliminary conference, if held, may include:

- (1) discussion of the proposed uses for the proceeds of the bond issue,
- (2) discussion of the legality or appropriateness of the bond issue,
- (3) discussion of the adequacy of the accounting and internal control systems of the governmental unit,
- (4) discussion of the application procedure and the documents required,
- (5) discussion of such other matters as the Secretary deems appropriate.

(b) The governing body of the governmental unit shall adopt and file with the Commission a resolution authorizing filing of the application to the Commission for the proposed bond issue and making necessary findings therefor.

(c) The governmental unit shall submit to the commission as a part of the application for approval all documents requested by the Secretary.

(d) After all documents relating to the application and required by the Secretary are received, the Secretary may accept the application.

(e) At any time after the acceptance of the application, the application may be considered by the Commission together with all applicable data available to the Commission. The Commission shall use the factors set forth in G.S. 159-52 and any other factors which in its opinion are applicable to the circumstances under consideration.

(f) The amount of approval shall be considered the maximum amount of bonds to be issued.

(g) If the unit requests a public hearing under G.S. 159-52(b), the hearing shall be heard pursuant to 20 NCAC 3 .0105.

History Note: Authority G.S. 159-3(f);
 Eff. February 1, 1976;
 Readopted Eff. September 23, 1977;
 Amended Eff. April 1, 1985;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0203 ADDITIONAL DOCUMENTS TO BE FILED

Each governmental unit for which bonds have been approved shall submit to the Commission copies of all documents required to be submitted to the bond counsel of the unit in connection with the sale of the approved bonds.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0204 APPROVAL OF REVENUE BONDS

- (a) If a governmental unit wishes to apply for approval of a revenue bond issue, the officials of the unit should arrange a preliminary conference with the staff of the Commission.
- (b) At the preliminary conference the following matters may be discussed:
 - (1) the nature and feasibility of the proposed project;
 - (2) the need for the project;
 - (3) the feasibility of selling the proposed bonds;
 - (4) the unit's debt management policies and practices;
 - (5) the adequacy of the unit's accounting system and internal control;
 - (6) any other matters relating to the unit, to the proposed project, or to the proposed bond issue;
 - (7) the procedures for application of approval to be used in that case.
- (c) The Secretary may set up procedures for the application to the commission for its approval of the revenue bond issue. These procedures should be appropriate to the circumstances with due regard for the requirements of bond counsel, of the underwriter (if private sale is intended) and of the matters discussed in the preliminary conference.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0205 APPROVAL OF TAX ANTICIPATION NOTES

- (a) Applications shall be filed on forms designated by the Secretary for this purpose.
- (b) The governmental unit shall submit all documents relating to the application which are requested by the Secretary.
- (c) The Commission may consider the following factors:
 - (1) the necessity and expediency for issuance of the notes;
 - (2) the reasonableness of budget estimates of taxes and other revenues;
 - (3) the adequacy of the budget, including funding of prior year's deficits;
 - (4) the availability of cash resources other than tax revenues, including redemption of unmatured investments;
 - (5) the ratio of uncollected taxes to the amount of the levy;
 - (6) the percentage of collection of taxes for prior years;
 - (7) the unit's tax collection procedures;
 - (8) the ability of the unit to appropriate funds to pay for costs and interest due on the tax anticipation notes;
 - (9) the adequacy of the unit's accounting and internal control system;
 - (10) any other information the Commission considers to be applicable to the circumstances.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0206 APPROVAL OF REVENUE ANTICIPATION NOTES

- (a) If a governmental unit wishes to apply for approval of revenue anticipation notes, the officials of the unit shall arrange a conference with the staff of the Commission. The Secretary may waive the requirement for a preliminary conference.
- (b) At the preliminary conference, the following matters may be discussed:
- (1) the need for the proposed notes,
 - (2) the feasibility of selling the proposed notes,
 - (3) the adequacy of the unit's accounting system and internal control,
 - (4) any other matters relating to the unit or the proposed notes,
 - (5) the procedures for application for approval of the proposed notes.
- (c) The Secretary shall establish procedures for the application with due regard to the requirements of the law, of bond counsel and of the matters discussed in the preliminary conference.
- (d) The Commission may consider the following factors:
- (1) the necessity and expediency for issuance of the notes,
 - (2) the purpose for which the proceeds of the notes will be used,
 - (3) the reasonableness and adequacy of the budget,
 - (4) the ability of the unit to appropriate funds to pay for costs and interest due on the proposed notes,
 - (5) the availability of alternative internal sources of funds,
 - (6) the adequacy of the unit's accounting system and internal control,
 - (7) any other information the Commission considers applicable in the circumstances.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0207 APPROVAL OF GRANT ANTICIPATION NOTES

- (a) If a governmental unit wishes to apply for approval of grant anticipation notes, the officials of the unit shall arrange a conference with the staff of the Commission. The Secretary may waive the requirement for a preliminary conference.
- (b) At the preliminary conference, the following matters may be discussed:
- (1) the need for the proposed notes,
 - (2) the feasibility of selling the proposed notes,
 - (3) the adequacy of the unit's accounting system and internal control,
 - (4) any other matters relating to the unit or the proposed notes,
 - (5) the procedures for application for approval of the proposed notes.
- (c) The Secretary shall establish procedures for the application with due regard to the requirements of the law, of bond counsel and of the matters discussed in the preliminary conference.
- (d) The Commission may consider the following factors:
- (1) the necessity and expediency for issuance of the notes,
 - (2) the purpose for which the proceeds of the notes will be used,
 - (3) the degree of assurance that the grant funds will be received,
 - (4) the ability of the unit to appropriate funds to pay for costs and interest due on the proposed notes,
 - (5) the availability of alternative internal sources of funds,
 - (6) the adequacy of the unit's accounting system and internal control,
 - (7) any other information the Commission considers applicable in the circumstances.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0208 SPECIAL PURPOSE BONDS

- (a) This Rule is applicable to all special bonds required to be approved by the Local Government Commission under authority of statutes other than Chapter 159 of the North Carolina General Statutes.
- (b) Insofar as is practicable, the procedures in .0204 of this Section shall be followed. The Secretary may establish additional procedures appropriate to the circumstances.

*History Note: Authority G.S. 159-3(f);
Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0300 - SALE AND DELIVERY OF BONDS AND NOTES

20 NCAC 03 .0301 PRESALE REQUIREMENTS

- (a) The Secretary may fix the date for the sale of any bonds or notes at any date after the Commission has approved the bonds or notes. Before fixing the date, the following may be considered:
- (1) the need of the governmental unit for the proceeds of the bonds or notes;
 - (2) the current financial condition of the governmental unit;
 - (3) requirements of federal or state agencies financing, in whole or in part, a project to be financed by the bonds or notes;
 - (4) requirements or restrictions of the Internal Revenue Service and any regulatory agencies relating to the issuance of bonds or notes;
 - (5) competing sales by other governmental units or the State of North Carolina;
 - (6) concurrence of the bond attorney for the governmental unit;
 - (7) current conditions in the market for local government obligations;
 - (8) such other factors that may affect the sale of the bonds or notes.
- (b) Before or after the sale date is fixed, the Secretary may suggest to the governmental unit the terms and conditions of the proposed sale of bonds or notes, and obtain from an authorized representative of the governmental unit their oral or written agreement as to the terms and conditions of the sale.
- (c) The Secretary shall prepare or cause the unit's bond attorney to prepare a notice of sale for the bonds or notes which shall specify the basis on which the bids are to be accepted, rejected and awarded. Such notice of sale shall be provided to the authorized representative of the governmental unit for publication in accordance with the applicable statutes.
- (d) The Secretary shall require the governmental unit to furnish the commission with sufficient information to prepare a prospectus or official statement such that adequate information is disclosed to meet the requirements of the market and regulatory agencies, if any, for a competitive and legal sale.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0302 SALE OF BONDS OR NOTES

- (a) The following instructions apply to sealed bids of bonds or notes:
- (1) Bids shall be opened on the hour and date specified in the notice of sale or as soon thereafter as is practical. No bids may be accepted after such date and hour.
 - (2) Any bid that is not complete or does not comply with the terms set out in the notice of sale shall be rejected.
 - (3) The bonds or notes shall be awarded in accordance with the notice of sale and applicable laws.
 - (4) The Secretary reserves the right to reject all bids.
 - (5) It shall be the duty of the representative, authorized by the governing board to accept or reject the award on behalf of the governmental unit, to be available at the business offices of the governmental unit for confirmation or rejection of the award of the bonds or notes to the lowest bidder. No attempt to reject the bids shall be valid after 12 noon on the date the bids were opened without the consent of the lowest bidder, provided that the Secretary or his designee has

telephoned the business office of the governmental unit or otherwise informed the authorized representative of the amount of the lowest bid within a reasonable time after the opening of the bids.

(b) Bonds or notes eligible by law for a private sale may be sold on a negotiated basis by the Secretary in consultation with the authorized representative or the governing body of the governmental unit, and in accordance with applicable law.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0303 DELIVERY OF BONDS OR NOTES

(a) The Secretary shall deliver, or cause to be delivered, the bonds or notes for the account of the State Treasurer to the place of delivery, designated in the accepted bid and shall provide the purchaser and bond counsel such documents and certifications required by law.

(b) The State Treasurer shall direct the disposition of the proceeds, in a direct and timely manner, in accordance with the applicable law.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0304 FEES FOR SALE AND DELIVERY OF BONDS

The Secretary shall submit to the governmental unit for payment an invoice or bill for the direct and indirect costs of sale and delivery of the bonds and notes.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0305 MATURITIES OF BONDS

(a) The maximum period of usefulness of capital projects for which units of local government may issue bonds are as follows:

- (1) 10 years from the date of the bonds used to finance the following classes of improvements and properties:
 - (A) vehicles, including fire engines, fire trucks, hose carts, ambulances, police cars and patrol wagons, sanitation and solid waste disposal trucks or any vehicle for use in any department or by any official of the unit of local government;
 - (B) voting machines;
 - (C) fire or police alarms and communication systems for use of any department of the unit of government;
 - (D) any equipment, machinery, apparatus, furnishings or other personal property acquired in any manner other than incident to the construction of a new building, major renovation of an existing building, the construction of a sanitary landfill, or the construction or major renovation of a park or playground facility;
- (2) 20 years from the date of the bonds used to finance the following classes of improvements and properties:
 - (A) sanitary landfills, including land, site preparation, earthmoving equipment, compactors, and other necessary machinery;
 - (B) construction and reconstruction of streets, including grading and landscaping;

- (C) construction and reconstruction of sidewalks, curbs, gutters, including grading;
- (D) bridges and culverts, including retaining walls and approaches;
- (3) 25 years from the date of the bonds used to finance plants for incineration or disposal of solid wastes;
- (4) 30 years from the date of the bonds used to finance the following classes of improvements and properties:
 - (A) cable television systems,
 - (B) elimination of any grade-crossings or crossings and improvements thereto,
 - (C) land for cemeteries or improvements thereto;
- (5) 40 years from the date of the bonds used to finance the following classes of improvements and properties:
 - (A) water systems;
 - (B) sanitary sewer systems and storm sewer systems (including drainage projects);
 - (C) electric power systems;
 - (D) gas systems;
 - (E) watershed improvement projects and acquisition of land or interest in land necessary therefor;
 - (F) airports, including land and grading, buildings, equipment and improvements thereto;
 - (G) public parks and playgrounds, including land, site improvements, buildings, equipment, and other necessary structures and furnishings;
 - (H) street land;
 - (I) land and improvements thereto for purposes not otherwise stated in this Regulation;
 - (J) buildings or other structures for purposes not otherwise stated in this Regulation;
 - (K) groins, jetties, dikes, moles, sand dunes, vegetation or other types of works or improvements which are designed for the control of beach erosion or for the protection from flood and hurricanes or for the preservation or restoration of facilities and natural features;
 - (L) any improvement or property not otherwise stated in this Regulation.
- (b) Any capital project listed in Section (a) of this Regulation shall be deemed to include any land, site preparation, buildings or other structures, machinery, equipment, or furnishings.
- (c) In the event bonds authorized by any one order under the provisions of G.S. 159-48 are for improvements or properties with different maximum periods of usefulness, the improvement or property having the greatest period of usefulness as stated in this Regulation shall determine the maximum period in which the bonds issued to finance the improvement may mature.
- (d) In the event bonds authorized by two or more orders under the provisions of G.S. 159-48 are for improvements or properties with different maximum periods of usefulness and are consolidated into one bond issue, the bonds issued to finance the improvement of properties shall mature within the weighted average period of usefulness taking into consideration the amount of bonds to be issued under each order and the maximum period of usefulness as determined under Sections (a) and (c) of this Regulation.

*History Note: Authority G.S. 159-3(f); 159-122;
 Eff. February 1, 1976;
 Readopted Eff. September 23, 1977;
 Temporary Amendment Eff. December 5, 1990 For a Period of 180 Days to Expire on June 3, 1991;
 Amended Eff. June 1, 1991;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

SECTION .0400 - ACCOUNTING AND INTERNAL CONTROLS

20 NCAC 03 .0401 ACCOUNTING AND INTERNAL CONTROL SYSTEMS

(a) The standard for accounting systems and internal control systems for governmental units shall be the Uniform Accounting System for Local Government in North Carolina published by the Commission or, where applicable, a uniform accounting system for the particular type of public authority when issued by the Commission. This standard will be used with due regard to the size, complexity and total budget of the governmental unit. It shall be the

responsibility of such governmental unit to justify deviations from the standards which result in any weakening of internal control or failure to provide information otherwise required by law, contract or regulation.

(b) In addition to the maintenance of accounting data on a departmental basis, each governmental unit shall maintain program accounting records wherever required to conform to the requirements established by law, by published regulation or by contract to which the governmental unit is a party. Provided, however, that no governmental unit shall be required to maintain details in the accounting records when such information is not furnished by autonomous or semi-autonomous agency prior to the actual recording of the various transactions.

(c) No trust and agency fund shall include any disbursements to any party not a direct beneficiary of the trust or agency agreement. Wherever the governmental unit is itself a beneficiary of a trust fund, the amounts to be expended shall be transferred to another appropriate fund and expended in accordance with law.

(d) Appropriation is defined to mean an authorization by the governing board of the governmental unit to make expenditures and to incur obligations for specific purposes. All appropriations are contained either in the annual budget ordinance, in a lawful amendment thereto, or in a project ordinance.

(e) A fund established to account only for assessments for county roads pursuant to G.S. 153A-205 may be considered an agency fund provided that the only expenditures from the fund are paid to the state for construction costs or to the general fund for repayment of working capital advances or for the amount of interest and penalties collected.

*History Note: Authority G.S. 159-25(c); 159-26(e);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0402 REVENUES SUSCEPTIBLE TO ACCRUAL

(a) The basis of accounting specified in this Rule shall apply only to the required treatment for the purposes of budgeting and accounting. For financial statement purposes, all revenues may be treated in the alternative as provided by generally accepted accounting principles.

(b) The revenues listed below shall not be considered susceptible to accrual under the modified accrual basis of accounting. For budgetary purposes, these revenues shall be considered to be revenues of the governmental unit only to the extent that they can reasonably be expected to be received in cash prior to the end of the budget year. For accounting purposes, these revenues shall be recorded as revenues of the governmental unit only to the extent that they are actually received in cash before the end of the fiscal year:

- (1) current year's property taxes;
- (2) prior year's property taxes;
- (3) all taxes collected by the state and remitted thereafter to the governmental unit including but not limited to:
 - (A) state street aid (Powell Bill),
 - (B) intangible tax,
 - (C) local option sales tax,
 - (D) beer and wine taxes,
 - (E) utility franchise taxes;
- (4) general federal revenue sharing, including payments for a specific entitlement period but actually remitted after the end of the fiscal year of the governmental unit.

(c) Revenue from specific categorical federal or state grants or grants-in-aid and from special federal revenue sharing block grants shall be accounted for on an accrual basis; i.e., revenues shall be recorded in the year and to the extent that the expenditures on the grant are recorded whether the revenue is received before or after the expenditure is made.

*History Note: Authority G.S. 159-26(e);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0403 APPROVAL TO USE ACCRUAL BASIS ACCOUNTING

History Note: Authority G.S. 159-26(e);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

20 NCAC 03 .0404 COLLATERAL TO SECURE CASH DEPOSITS

History Note: Authority G.S. 115-100.27(b); 159-31(b);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Repealed Eff. August 1, 1980.

20 NCAC 03 .0405 COMMENTS TO FEDERAL AND STATE GRANTOR AGENCIES

(a) A request from a federal or state agency requesting comment by the Commission on the accounting system and internal controls of a governmental unit which has applied to it for a grant or loan shall be presumed to have been made with the knowledge and consent of the governmental unit.

(b) Comments shall be based on a comparison of the governmental units accounting system and internal controls with the standards set forth in 20 NCAC 3 .0401 with particular attention to the following areas, as applicable:

- (1) the chart of accounts,
- (2) purchasing,
- (3) receipt and disbursement of cash,
- (4) investment policies,
- (5) inventories,
- (6) fixed asset ledgers,
- (7) payrolls,
- (8) billings and accounts receivable,
- (9) degree of currency of posting journals and ledgers,
- (10) policies concerning interim financial statements.

(c) The required data shall be obtained in any way in which the responsible deputy secretary deems appropriate, including, but not limited to:

- (1) review of audit reports and management letters,
- (2) consultation with the independent auditor of the governmental unit,
- (3) personal visits by representatives of the Commission,
- (4) conferences with officials of the governmental unit,
- (5) additional data furnished by and attested to by officials of the governmental unit.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0406 APPROVAL OF FINANCE OFFICER ACTING AS TAX COLLECTOR

(a) Application for approval for the finance officer to serve concurrently as tax collector shall be made to the Commission at its mailing address.

(b) The application shall include a letter from the chief executive officer of the governmental unit containing as a minimum:

- (1) justification for the request;
- (2) the procedures of the internal control system which will affect the problems arising from the two offices being held by one person, including an organizational chart where more than two persons perform duties of the two functions;
- (3) the amount of the surety bonds to be requested for each office, and how the penal sums were calculated;
- (4) two certified copies of an extract of the minutes of the governing body relating to the resolution in Subdivision (c) of this Rule as an attachment.

(c) The governing body of the governmental unit shall adopt a resolution appointing the recommended person as finance officer and as tax collector effective upon receipt of the written permission of the Secretary and requesting such permission of the Secretary. The said resolution shall also contain a requirement that the internal control procedures be sufficient to prevent improper handling of public funds. Local Government Commission Form 208 shall be provided by the Commission to fulfill the requirements of this Rule.

(d) The Secretary may require a conference between the officials of the governmental unit and the staff of the Commission. The Secretary may also require an investigation of the internal control and accounting system by a representative of the Commission.

(e) The Secretary will consider the following factors:

- (1) the necessity and expediency of the dual appointment,
- (2) the adequacy of the internal control system,
- (3) the qualifications of the appointee,
- (4) the tax collecting policies and procedures,
- (5) audit reports and other information in the file of the Commission,
- (6) any other factors the Secretary deems appropriate.

The Secretary shall thereafter decide to approve or to disapprove the application.

(f) If the application is approved, the Secretary shall furnish the governmental unit written permission which shall include:

- (1) The term of the approval shall be the lesser of:
 - (A) the remaining tenure of the appointee as tax collector, or
 - (B) three years from the date of the approval;
- (2) The bonds of the appointee shall not be reduced or the level of internal control reduced from those specified in the application.

(g) If the application is disapproved, the Secretary shall immediately notify the governing unit.

History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0407 REPORT OF CASH BALANCE

A form designated by the Secretary for this purpose shall be submitted by all governmental units on or before January 15, containing information as of December 31 next preceding.

History Note: Authority G.S. 159-3(f); 159-33;
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0408 REPORT OF FINANCIAL INFORMATION

A form designated by the Secretary for this purpose shall be submitted by all governmental units which levy taxes or for whom another governmental unit levies a tax. The form shall be submitted on or before October 31 containing information as of June 30 next preceding. For the purpose of this report, total appraisal value and total levy shall include all discoveries and abatements properly chargeable to the year under the Machinery Act (G.S. 105, Subchapter II).

History Note: Authority G.S. 159-3(f); 159-33.1;
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0409 EXEMPTION FROM PREAUDIT CERTIFICATE REQUIREMENT FOR ELECTRONIC PAYMENTS

(a) To qualify for an exemption from the preaudit certificate requirement in G.S. 159-28(a1) or G.S. 115C-441(a1) for electronic payments, a local government, public authority, or local school administrative unit, herein referred to as "the unit," shall do the following:

- (1) The unit's governing board shall adopt a resolution authorizing the unit to engage in electronic payments as defined by G.S. 159-28 or G.S. 115C-441;
- (2) The unit shall have an "encumbrance system." As used in this Rule, an "encumbrance system" means a system of written policies and procedures for tracking obligations. The system may be manual, maintained as part of the unit's accounting system, or a combination of the two;
- (3) The unit's governing board, or finance officer if authorized by the unit's governing board, shall adopt a written policy outlining procedures for preauditing obligations that will be incurred by electronic payments. The written policy and the procedures shall provide internal controls that shall ensure the following:
 - (A) there is a budget, project, or grant ordinance appropriation authorizing the expenditure;
 - (B) that sufficient budgeted monies remain within the appropriation to cover the amount that is expected to be paid out during the current fiscal year if accounted for in the budget ordinance, or to cover the entire amount if accounted for in a project or grant ordinance; and
 - (C) that the amount of the transaction is recorded in the unit's encumbrance system;
- (4) The unit shall provide training to all personnel about the written policy and the procedures that shall be followed before undertaking an electronic payment; and
- (5) Each quarter, the unit shall provide its governing board a budget-to-actual statement that includes the following:
 - (A) budgeted accounts;
 - (B) actual payments made;
 - (C) amounts encumbered, including electronic obligations; and
 - (D) the amount of the budget that is unobligated for all major funds.

(b) Units that comply with Subparagraphs (a)(1) through (5) of this Rule shall not be required to affix the preaudit language required in G.S. 159-28 (a1) or G.S. 115C-441 (a1) to electronic payments transacted with:

- (1) charge cards;
- (2) credit cards;
- (3) debit cards;
- (4) gas cards;
- (5) procurement cards; or
- (6) electronic funds transfers.

History Note: *Authority G.S. 159-28(f)(3); 115C-441(f)(3);
 Eff. November 1, 2017.*

20 NCAC 03 .0410 EXEMPTION FROM DISBURSEMENT CERTIFICATE REQUIREMENT FOR ELECTRONIC PAYMENTS

(a) To qualify for an exemption from the disbursement certificate requirement in G.S. 159-28(d1) and G.S. 115C-441(d1) for electronic payments, a local government, public authority, or local school administrative unit, herein referred to as "the unit," shall do the following:

- (1) The unit's governing board shall adopt a resolution authorizing the unit to engage in electronic payments as defined by G.S. 159-28 or G.S. 115C-441; and
- (2) The unit's governing board, or finance officer if authorized by the governing board, shall adopt a written policy outlining procedures for disbursing public funds by electronic transaction. The written policy and the procedures shall provide internal controls that shall ensure the following:
 - (A) that the amount claimed is payable;
 - (B) that there is a budget, project, or grant ordinance appropriation authorizing the expenditure;
 - (C) that monies remain within the appropriation to cover the amount that is due during the current fiscal year if accounted for in the budget ordinance, or to cover the entire amount if accounted for in a project or grant ordinance; and

- (D) that the unit has sufficient cash to cover the payment.
- (b) Units that comply with Subparagraphs (a)(1) and (2) of this Rule shall not be required to affix the disbursement certificate required in G.S. 159-28 (d1) or G.S. 115C-441 (d1) to any electronic payments.

*History Note: Authority G.S. 159-28(f)(3); 115C-441(f)(3);
Eff. November 1, 2017.*

SECTION .0500 - AUDIT CONTRACTS

20 NCAC 03 .0501 APPLICATION FOR APPROVAL OF AUDIT CONTRACT

Any governmental unit desiring to obtain approval of an audit contract shall submit the original and two copies of the audit contract and all attachments thereto to the Commission at its mailing address.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0502 AUDIT CONTRACT

(a) The Secretary may promulgate a standard audit contract designed to include the specific requirements in Paragraph (c) of this Rule. The Secretary may revise the standard audit contract provided that the contract continues to include the requirements of this Section. The requirements may be included in the contract either specifically or by reference to this Section.

(b) Government units and their independent auditors may submit contracts on their own forms provided that the form includes all requirements, either specifically or by reference, in Paragraph (c) of this Rule.

(c) The following requirements and conditions shall be included in all contracts for government units:

- (1) The scope of the audit shall include all funds and ledgers of the government unit, and the requirement that the audit shall be conducted in accordance with generally accepted auditing standards and shall include such tests of the accounting records and such other procedures (including direct confirmation of tax, utility and other receivables) as are considered by the auditor to be necessary in the circumstances. Exceptions to the scope of the audit may be made only by specific approval of the Secretary or a deputy secretary and only for reasons that are explained as to the circumstances of the particular situation.
- (2) The audit shall include a review of the internal control system of the government unit as provided by generally accepted auditing standards. The auditor shall forward a management letter to the government unit, detailing the auditor's findings and recommendations for improvement. The auditor shall forward a copy of the management letter to the Secretary.
- (3) All audit engagement terms shall be stated, and all audit engagement fees shall be stated and show the amounts and calculations necessary to compute the final fee.
- (4) The auditor shall, after completion of his or her examination, submit to the governing body a report of the audit with as many copies as requested in the contract. The report shall include all funds and ledgers included in the scope of the audit, and an expression of opinion on the financial statements included therein. If the expression of opinion is in any way modified or if an opinion is disclaimed or not included for any reason, the reason therefor shall be included in the report of audit. Copies of the audit report and any special reports issued as a result of the audit engagement shall be transmitted forthwith to the Secretary.
- (5) The auditor shall present the audited financial statements including any compliance reports to the government unit's governing body or audit committee in an official meeting in open session as soon as the audited financial statements are available but not later than 45 days after the submission of the audit report to the Secretary. The auditor's presentation to the government unit's governing body or audit committee shall include:
 - (A) the description of each finding, including all material weaknesses and significant deficiencies, as found by the auditor, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding

internal controls as required by current auditing standards set by the Accounting Standards Board or its successor;

- (B) the status of the prior year audit findings;
- (C) the values of Financial Performance Indicators based on information presented in the audited financial statements; and
- (D) notification to the governing body that the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters," if required under Rule .0508 of this Section.

The Secretary shall verify auditors' compliance with the presentation requirement of Subparagraph (c)(5) of this Rule.

- (6) Information based on the audited financial statements shall be submitted to the Secretary for the purpose of identifying Financial Performance Indicators and Financial Performance Indicators of Concern.
 - (7) The auditor shall notify the governing body and the Secretary if circumstances disclosed during the audit call for an expanded scope of work by the auditor beyond that indicated by the auditor's audit planning and risk assessment.
 - (8) No agreement(s) relating to the audit engagement but not attached to and referenced in the audit contract shall be enforceable by any party to said agreement(s).
- (d) Form LGC-205 (standard audit contract) shall be provided for the convenience of those auditors and government units who wish to use the form.
- (e) For purposes of this Section, the following definitions apply:
- (1) "Financial Performance Indicators" are values derived from information included in the audited financial statements that assist the Secretary in improving the comparability of reporting a given government unit's financial condition and financial performance. These criteria include adequacy of a government unit's fund balance; liquidity or the ability to meet short-term obligations; solvency or the ability to meet long-term obligations; debt service coverage; leverage; and such other indicators of financial condition and financial performance as the Secretary may establish.
 - (2) "Financial Performance Indicators of Concern" are Financial Performance Indicators with values which may indicate inadequate financial conditions or fiscal management concerns within the government unit.

*History Note: Authority G.S. 159-3(f); 159-34;
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
Amended Eff. November 1, 2020.*

20 NCAC 03 .0503 AUDIT ENGAGEMENTS DEFINED

Audits for which a contract must be approved include both financial audits and compliance audits and include interim audits, special purpose or limited audits and the regular annual audit and include all work done as a part of or in conjunction with the audit, except work intended solely for the improvement of the accounting system.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0504 WHO MAY PERFORM AUDITS

The following persons may perform audits under this Section:

- (1) Any person who holds a valid and unrevoked certificate to practice as a certified public accountant in North Carolina, provided that a non-resident holder of such a certificate must also satisfy the Secretary that he has an adequate knowledge of the laws of the state as they apply to governmental units;

- (2) An audit agency of the State of North Carolina or of the United States Government provided that the said agency agrees in advance to comply with the applicable requirements and conditions listed in 20 NCAC 3 .0502 and the audit engagement is directly and continuously supervised by a person who holds a valid license to practice as a CPA in any of the fifty states or the District of Columbia, and provided further that an audit by an agency of the State of North Carolina is specifically approved by the State Auditor of North Carolina;
- (3) Any person, who fulfills all of the following criteria may be approved by the Commission as qualified to audit local government accounts:
 - (a) He has practiced as an accountant in the State of North Carolina for at least three years;
 - (b) He has completed at least 15 semester hours of accounting courses in an accredited institution of higher education including cost accounting, auditing and the theory of accounts;
 - (c) He has passed, within the three years immediately prior to approval, either the theory of accounts and auditing examinations given by the N.C. Board of Certified Public Account Examiners or other equivalent examination(s);
 - (d) He has passed an examination on the principals of governmental accounting and auditing and on state law as it applies to the operations of the type of governmental unit to be audited. Said examination to be given only after the applicant has completed 3(a), (b), and (c) of this Rule. The approval by the commission shall be for a term of five years and may be renewed for five year periods; provided that the Commission may at any renewal require the applicant to take and pass one or more of the examinations listed as 3(c) and (d) of this Rule, prior to the Commission renewing its approval.

History Note: Authority G.S. 159-3(f);
 Eff. February 1, 1976;
 Readopted Eff. September 23, 1977;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0505 AUDIT BILLINGS

- (a) All invoices for services rendered in an audit engagement as defined in Rule .0503 of this Section shall be submitted to the Secretary for approval before any payment is made. Payment before approval is a violation of law pursuant to G.S. 159-34(a).
- (b) Invoices shall be approved only under the following circumstances:
 - (1) there is a valid contract;
 - (2) the report of audit has been received;
 - (3) the audit billing conforms to the requirements of the contract and of this Section;
 - (4) the audit billing shows all calculations necessary to compute the fee from the rates and terms shown in the contract; and
 - (5) there are no circumstances known to the Secretary indicating that the audit report may fail to conform to the requirements of the contract and of this Section.

Notwithstanding the above, the Secretary may approve interim billings up to a maximum of 75 percent of the billings for the last annual audit of the subject unit submitted to the Secretary. Provided however, that the Secretary or a deputy secretary may approve a higher or lower amount if he or she finds that such would be more equitable under a particular set of circumstances.

History Note: Authority G.S. 159-3(f); 159-34;
 Eff. February 1, 1976;
 Readopted Eff. September 23, 1977;
 Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;
 Amended Eff. November 1, 2020.

20 NCAC 03 .0506 WITHHOLDING OF APPROVAL

- (a) Whenever any of the following conditions exists, the Secretary may withhold approval under either 20 NCAC 3 .0502 or 20 NCAC 3 .0505:

- (1) The auditor has failed to furnish to the commission reports on any audit subject to the approval of the Commission, when nine months has elapsed since the later of the date of the contract or the end of the fiscal period to be audited.
- (2) The auditor exhibits in his reports of audit a lack of knowledge of North Carolina law or of generally accepted accounting principles.
- (3) The Commission has reason to believe that the audit was not performed in accord with the requirements of this Section.

Whenever an approval is withheld by the Commission, the Commission shall notify the auditor immediately of the withholding of the approval, and the specific reason therefore.

(b) Whenever an approval has been withheld, the auditor may request a review of the case by the deputy secretary, accounting advisory section. The request must be in writing to the said deputy secretary at the mailing address of the Commission. The request must include an explanation of why the approval should be given. In his discretion the deputy secretary may require a meeting with the auditor to discuss the matter. If the matter applies to the performance of one or more specific audits, the auditor must bring to the meeting his working papers for the subject audit(s) and make them available in their entirety to the deputy secretary.

(c) The deputy secretary may, at any time, at his own discretion or at the request of the auditor, refer a matter of accounting principles or auditing standards to either the North Carolina Association of Certified Public Accountants or the American Institute of Certified Public Accountants for an advisory opinion.

(d) If matters cannot be resolved by this means, the auditor may proceed under 20 NCAC 3 .0105, contested case procedures.

*History Note: Authority G.S. 159-3(f);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.*

20 NCAC 03 .0507 NON-PROFIT CORPORATIONS

*History Note: Authority G.S. 159-3(f); 159-34; 159-40;
Eff. September 23, 1977;
Repealed Eff. August 1, 1987.*

20 NCAC 03 .0508 RESPONSE TO THE INDEPENDENT AUDITOR'S FINDINGS, RECOMMENDATIONS, AND FISCAL MATTERS

(a) If the governing body of a government unit is notified by its independent auditor that the audited financial statements presented to the governing body included one or more significant deficiencies, material weaknesses, other findings or if the auditor determined that Financial Performance Indicators of Concern were identified based on information presented in the audited financial statements, then the governing body shall develop a "Response to the Auditor's Findings, Recommendations, and Fiscal Matters" ("Response"), pursuant to this Rule, signed by a majority of the members of the governing body. The governing body shall submit the Response to the Secretary within 60 days of the auditor's presentation.

(b) The Response shall address each significant deficiency, material weakness and other audit finding presented to the governing body and shall provide a plan to address each Financial Performance Indicator of Concern reported to the governing body. The Response shall include the following:

- (1) Audit Findings
 - (A) A written description of the procedure, process, or action plan developed by the government unit to address each finding, including all material weaknesses and significant deficiencies, and any other issues related to the internal controls or fiscal health of the government unit as disclosed in the management letter, the Single Audit or Yellow Book reports, or any other communications from the auditor regarding internal controls as required by current auditing standards set by the Accounting Standards Board or its successors.
 - (B) The description shall provide specific and detailed steps with measurable results that allow the governing body to conclude that the procedure, process, or action plan as implemented and followed by the staff of the government unit, will address the specific

audit finding. The description may include such information as the date for implementation, position titles responsible for implementation, positions performing the procedures or processes, frequency of performance, and other matters necessary to evaluate the success of the procedure or process.

- (2) Financial Performance Indicators of Concern
 - (A) A written description of the procedure, process, or action plan developed by the government unit to address each Financial Performance Indicator of Concern.
 - (B) The description shall provide specific and detailed steps with measurable results that allow the governing body to conclude that it will address each specific Financial Performance Indicator of Concern. The description may include such information as the time period required for improvement, any governing body action required for implementation, the steps to increase revenue or reduce expenses, the frequency of performance evaluation, and other matters necessary to evaluate the success of the plan.

(c) If the governing body disagrees with an audit finding, it shall describe in detail its disagreement and explain the factors that support this determination in its Response.

History Note: Authority G.S. 159-3(f); 159-34;
Eff. November 1, 2020.

SECTION .0600 - SCHOOL BUDGETING AND ACCOUNTING

20 NCAC 03 .0601 ENCUMBRANCE ACCOUNTING

All school administrative units shall use the encumbrance method of accounting in any fiscal year in which its total membership is 6,000 or more, as defined in G.S. 115C-430.

History Note: Authority G.S. 115-440(c);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Amended Eff. April 1, 1985;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0602 SCHOOL REVENUES SUSCEPTIBLE TO ACCRUAL

History Note: Authority G.S. 115-440(d);
Eff. February 1, 1976;
Readopted Eff. September 23, 1977;
Repealed Eff. April 1, 1985.

SECTION .0700 - MUTUAL FUND FOR LOCAL GOVERNMENT INVESTMENT

20 NCAC 03 .0701	GENERAL INFORMATION
20 NCAC 03 .0702	DEFINITION OF TERMS
20 NCAC 03 .0703	MINIMUM FUND STANDARDS
20 NCAC 03 .0704	REQUIREMENTS FOR THE RFP
20 NCAC 03 .0705	ISSUANCE OF THE RFP
20 NCAC 03 .0706	CERTIFICATION AND TERMINATION OF MANAGER
20 NCAC 03 .0707	TERMINATION FOR CAUSE
20 NCAC 03 .0708	REVIEW OF MANAGER
20 NCAC 03 .0709	DELEGATION OF AUTHORITY

History Note: Authority G.S. 159-3(f); 159-30(c)(6a); 159-30(c)(7);
Eff. February 1, 1982;
Amended Eff. April 1, 1985; April 1, 1987; October 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018;

Repealed Eff. October 1, 2023.

20 NCAC 03 .0710 GENERAL INFORMATION

Correspondence required by the rules of this Section shall be addressed to: Secretary, Local Government Commission, Department of State Treasurer, 3200 Atlantic Avenue, Raleigh, North Carolina 27604 or emailed to SLGFD@nctreasurer.com.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.*

20 NCAC 03 .0711 DEFINITION OF TERMS

The following words and phrases used in this Section are defined as follows:

- (1) "Active Participants" means Eligible Participants that are currently invested in a Fund.
- (2) "Affiliate" means, with respect to a party, any person, entity, or organization that either directly or indirectly controls, is controlled by, or is under common control with such party, including any employee, officer, or director of such party.
- (3) "Broker-Dealer" means either a "broker" or a "dealer" as both are defined in the Securities Exchange Act of 1934 which is incorporated by reference, including subsequent amendments and editions and is available online, at <https://uscode.house.gov/browse/prelim@title15/chapter2B&edition=prelim> at no cost.
- (4) "Certified Money Market Mutual Fund" means a mutual fund certified pursuant to this Section which meets the definition of "Money Market Mutual Fund" in this Rule.
- (5) "Certified Mutual Fund" means a mutual fund certified pursuant to this Section which does not meet the definition of "Money Market Mutual Fund" in this Rule.
- (6) "Decertification Period" means the period of time beginning on the date the Commission adopts a resolution terminating the certification of a Fund and ending in 30 calendar days or on a date specified in the resolution.
- (7) "Eligible Participants" means the following North Carolina entities: local governments and public authorities as defined in G.S. 159-7, school administrative units, local ABC boards, community colleges, public hospitals, and other entities authorized by North Carolina law to use forms of investment allowed by G.S. 159-30.
- (8) "Fund" means a mutual fund certified pursuant to this Section.
- (9) "Manager" means the investment adviser managing a Fund certified pursuant to this Section as required by Rule .0712(f) of this Section.
- (10) "Money Market Mutual Fund" means a money market fund that complies with 17 C.F.R. 270.2a-7 and which maintains a stable one-dollar net asset value (NAV) per share.
- (11) "Reporting Event" means any of the following which either is a public record or is required by law to be reported to the Active Participants:
 - (a) an administrative, civil, or criminal enforcement action taken pursuant to federal or state law against a Fund, a Manager, or an Affiliate of a Fund or Manager;
 - (b) a notice from the SEC that SEC staff intends to recommend an enforcement action against a Fund, or, with respect to services provided to the relevant Fund, against a Manager or an Affiliate of a Fund or Manager; or
 - (c) a non-routine inquiry or investigation pursuant to securities law or regulation by the SEC or other federal, state, or self-regulatory body or organization against a Fund, a Manager, or an Affiliate of a Fund or Manager.
- (12) "SEC" means the U.S. Securities and Exchange Commission.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.*

20 NCAC 03 .0712 MINIMUM FUND STANDARDS

- (a) A Fund may only invest in securities permitted by G.S. 159-30(c). A Fund shall not purchase any security with a maturity exceeding seven years.
- (b) A Fund shall be registered with the SEC as an investment company pursuant to the Investment Company Act of 1940 and shall comply with all applicable SEC rules, regulations, and reporting requirements. The SEC

requirements of 17 CFR Chapter 2 are incorporated by reference, including subsequent amendments and editions, and are available online, at <https://www.ecfr.gov/current/title-17/chapter-II> at no cost. SEC registration and compliance do not modify the requirement that a Fund comply with G.S. 159-30. The Investment Company Act of 1940 is incorporated by reference, including subsequent amendments and editions and is available online, at <https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter1&edition=prelim> at no cost.

(c) A Fund shall be established and operated in such a manner that any local, state, or federal income tax liability shall be passed through to the Active Participants.

(d) A Fund shall periodically report performance in conformance with SEC rules and regulations, 17 CFR Chapter 2, and the reports shall include at least annually the Fund's performance against the benchmarks assigned by the Fund. A Fund shall assign a benchmark that meets the following requirements:

- (1) is unaffiliated with the Fund's Manager;
- (2) is specified in advance; and
- (3) is representative of the Fund's current investment strategy and parameters.

(e) A Fund shall calculate a daily net asset value according to US "generally accepted accounting principles" (GAAP) and allow investors to transact daily at the net asset value.

(f) A Fund shall be managed by an investment adviser registered with either the SEC as an investment adviser pursuant to the Investment Advisers Act of 1940, or the North Carolina Secretary of State as an investment adviser pursuant to the North Carolina Investment Advisers Act, and such investment adviser shall comply with all applicable federal and state rules, regulations, and reporting requirements. The Investment Advisers Act of 1940 is incorporated by reference, including subsequent amendments and editions and is available online, at <https://uscode.house.gov/browse/prelim@title15/chapter2D/subchapter2&edition=prelim> at no cost. The North Carolina Investment Advisers Act, G.S. 78C is incorporated by reference, including subsequent amendments and editions and is available online, at https://ncleg.gov/EnactedLegislation/Statutes/HTML/ByChapter/Chapter_78C.html at no cost.

(g) The sale and marketing of a Fund shall adhere to all applicable federal and state laws and regulations.

(h) A Fund shall bear one of the two highest ratings of at least one nationally recognized rating service and shall not bear a rating below one of the two highest ratings by any nationally recognized rating service which rates the Fund.

(i) A Fund shall disclose prominently in its prospectus, marketing materials, and communications with Eligible Participants and Active Participants that it invests only in those securities that are authorized for investment by units of local government pursuant to G.S. 159-30(c)(8) and this Section.

(j) A Certified Mutual Fund shall disclose prominently in its prospectus, marketing materials, and communications with Eligible Participants and Active Participants that, in contrast to a Certified Money Market Mutual Fund, such Certified Mutual Fund does not seek to maintain a stable one-dollar net asset value (NAV) per share.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.*

20 NCAC 03 .0713 CERTIFICATION OF A FUND

(a) A prospective Manager may request certification of a Fund by submitting a proposal to the Secretary containing the following information:

- (1) the name of the Fund;
- (2) the address of the Fund;
- (3) the Fund prospectus;
- (4) the most recent holdings report;
- (5) the most recent annual report;
- (6) an attestation that the Fund meets, and shall maintain compliance with, the minimum Fund standards set forth in Rule .0712 of this Section;
- (7) if the Fund is seeking certification as a Money Market Mutual Fund, an attestation that the Fund meets, and shall maintain compliance with, the definition in Rule .0711 of this Section of Money Market Mutual Fund; and
- (8) a list of all Broker-Dealers selling or marketing the Fund.

(b) The Commission shall review the proposal and may request supporting information as needed to assist in its review of the proposal.

(c) If the Commission certifies a Fund, it shall certify the Fund as a "Certified Money Market Mutual Fund," if the Fund is a Money Market Mutual Fund as defined in Rule .0711 of this Section; otherwise, it shall certify the Fund as a "Certified Mutual Fund."

(d) Certification is effective the day after the Commission adopts a resolution certifying the Fund and is effective until termination of certification pursuant to Rule .0715 of this Section.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.*

20 NCAC 03 .0714 REVIEW OF FUND AND ATTESTATION

(a) Beginning one year after the effective date of the certification of a Fund, and by December 31 each year thereafter, the Manager shall submit an attestation to the Secretary:

- (1) attesting that the Fund continues to meet the minimum Fund standards provided in Rule .0712 of this Section;
- (2) listing all Reporting Events from the date of the prior attestation provided to the Secretary or, in the case of the first attestation of a Fund, all Reporting Events from the date of the initial submission of proposal for certification, and attesting that no other Reporting Event has occurred;
- (3) attesting that the sale and marketing of the Fund adheres to all applicable federal and state laws and regulations;
- (4) if the Fund is a Certified Money Market Mutual Fund, attesting that the Fund continues to comply with the definition of Certified Money Market Mutual Fund in Rule .0711 of this Section;
- (5) providing a list of the Broker-Dealers selling or marketing the Fund;
- (6) providing a holdings report including all holdings from the date of the prior attestation provided to the Secretary or, in the case of the first attestation of a Fund, all holdings from the date of the holdings report provided in the initial submission of proposal for certification; and
- (7) providing the most recent Fund prospectus and annual report.

(b) The Commission may request additional attestations at any time to review and confirm compliance of the Fund with the rules in this Section.

(c) Any changes to a Fund's or investment adviser's federal or state registration documents shall be reported to the Secretary within 30 days of the filing of the updated registration documents, with all changes marked and identified.

(d) The Manager shall, upon receiving a request from the Commission, provide documentation supporting an attestation with specific reference to the location within such supporting documentation which demonstrates that the minimum Fund standards of Rule .0712 of this Section have been met.

(e) The Manager shall provide to the Commission access to all Fund documents and shall allow the Commission to make any examinations the Commission deems required to ensure compliance with the rules of this Section, and shall provide to the Commission copies of all Fund documents requested by the Commission at the expense of the Manager of the Fund.

*History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.*

20 NCAC 03 .0715 TERMINATION OF CERTIFICATION

(a) The Commission may adopt a resolution terminating the certification of a Fund due to one or more of the following:

- (1) A Manager or a Fund violates any of the rules in this Section and the Commission finds that there has been a material adverse effect on the Fund or the interests of the Active Participants.
- (2) A Fund fails to meet a federal or state legal requirement and the Commission finds that there has been a material adverse effect on the Fund or the interests of the Active Participants.
- (3) A Fund fails to submit an attestation pursuant to Rule .0714 of this Section within 30 calendar days of the due date.
- (4) The Manager of a Fund requests termination of certification.
- (5) A Fund is dissolved or terminated.
- (6) A Reporting Event has occurred, and the Commission finds that there has been a material adverse effect on the Fund or the interests of the Active Participants.

(b) A Decertification Period shall commence upon the Commission's adoption of a resolution terminating certification of a Fund, during which time the Manager of the Fund shall notify the Active Participants of the termination of certification and provide instructions on withdrawing assets from the Fund.

(c) Termination of certification shall be effective upon the conclusion of the Decertification Period.

History Note: Authority G.S. 159-3(f); 159-30(c)(8);
Eff. October 1, 2023.

SECTION .0800 - SYSTEM OF REGISTRATION

20 NCAC 03 .0801 APPROVAL OF A SYSTEM OF REGISTRATION

- (a) No requests for approval of a system of registration shall be brought before the Commission except as provided in this Rule.
- (b) If the issuer elects to use the system of registration established for the state and its political subdivisions by the current contract between a financial institution providing corporate trust services and the State Treasurer of North Carolina, the request for approval shall include a signed copy of the agreement permitting the issuer to operate a system of registration under said contract.
- (c) If the issuer does not elect to use the system of registration, established for the state, the request for approval shall include a copy of all agreements necessary to effectuate the system, including all fee schedules and documentary evidence that any differences between the requested system and the system established for the state will not affect the initial issuance of the bonds in question or any subsequent issue of similar bonds.
- (d) The Commission will not accept any requests for approval of a system of registration unless it specifies its application to a specific bond issue approved or to be approved by the Commission.
- (e) The Commission hereby delegates to the secretary the authority to approve requests made under Paragraph (b) of the Rule.

History Note: Authority G.S. 159-3(f); 159E-4;
Eff. August 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0802 APPROVAL OF APPOINTMENT OF AGENTS

- (a) The Commission hereby delegates to the secretary the authority to approve any request for approval of the appointment of an agent which is a bank or trust company licensed to do corporate trust business in this state or, if not licensed in this state, with unimpaired capital notes, stock and surplus of at least one hundred million dollars (\$100,000,000) and has provided the same or similar services over the last 12 month period for marketable bonds and notes of an average value of at least one billion dollars (\$1,000,000,000).
- (b) All other requests for approval of the appointment of agents shall be brought to the Commission with documentary evidence that the agent to be appointed will be acceptable to the market community and will not result in an increase in ability or cost of selling the bonds or notes of the issuer.

History Note: Authority G.S. 159-3(f); 159E-8;
Eff. August 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0803 MAXIMUM RATES FOR AGENCY SERVICES

The maximum rates for agency services shall be the rates in effect from time to time for provisions of like services to the state.

History Note: Authority G.S. 159-3(f); 159-134;
Eff. August 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .0900 - OTHER REQUESTS FOR APPROVAL

20 NCAC 03 .0901 PROCESSING APPLICATIONS

- (a) All applications for approval shall be reviewed by the staff for completeness and responsiveness to the statutory requirements. The Secretary may require such additional information from the applicant as he may deem necessary. The Secretary may request such additional information from any party making comments on the application as he

may deem appropriate. Failure of a party to provide additional information may be used by the Commission as a factor in approving or denying the application.

(b) The Secretary, in his own discretion, may require a conference to which the applicant and all parties who comment on the application shall be invited. Attendance at this conference shall be compulsory for continued consideration of the application.

(c) The staff shall provide to the commission a summary of the application with particular attention to the factors established in any applicable statutory or administrative law and a proposed decision. Prior to making its decision the Commission may request additional information from any person or governmental agency which, it deems necessary for making its decision. The Commission may carry over the matter to any subsequent meeting.

(d) The Commission may approve or modify the request of the governmental unit and specify conditions under which the approval shall be valid, including, but not limited to, conditions of termination or revocation and conditions under which the unit may or may not be authorized to borrow money while the authorization is outstanding. A copy of the final decision shall be provided to the applicant and such other persons as request a copy.

History Note: Authority G.S. 159-3(f);
Eff. November 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0902 HEARING ON CONFORMANCE TO PRIOR APPROVALS

History Note: Authority G.S. 159-3(f);
Eff. November 1, 1983;
Expired Eff. February 1, 2018 pursuant to G.S. 150B-21.3A.

20 NCAC 03 .0903 APPLICATION TO AMEND: PRIOR APPROVALS

(a) Whenever there is a substantial change in the economic environment or situation in which the governmental unit operates, the governing board of the governmental unit may make an application to amend a prior approval by the Commission.

(b) An application to amend prior approvals shall be submitted in the same manner as required for initial approval plus the following additional items in the Board resolution:

- (1) A statement of the changes in the economic environment or situation and estimates of the financial effects thereof; and
- (2) A statement of the modification of the approval being requested by the Board and the Board's reasoning for making each specific request for modification.

History Note: Authority G.S. 159-3(f);
Eff. November 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0904 COUNTY USE OF SALES TAXES PURSUANT TO G.S. 105-487(C)

(a) Any county desiring to make application to the Commission under G.S. 105-487(c) shall submit Form LGC-101, Application to Use Allocated Additional Sales Tax Revenue for Other Than School Capital Outlay Purposes, including debt service.

(b) The following documents shall be attached to the application:

- (1) A certified copy of the resolution of the Board of county commissioners. The resolution shall contain as a minimum the following:
 - (A) The petition to the commission;
 - (B) The period for which the petition is to apply;
 - (C) The projected capital outlay requirements of the schools in the county during each year of the petition period;
 - (D) The sources from which the county intends to appropriate moneys for school capital outlay needs during each year of the petition period; and
 - (E) If the proposal contemplates the use of borrowed funds, the resolution shall identify the revenue sources to be used for repayment and the Board's reasoning for using borrowed

funds as opposed to the pay-as-you-go concept inherent in the legislation authorizing the levy of the additional sales tax.

- (2) A statement from the State Board of Education School Planning Division on its estimate of school capital outlay requirements during each year of the petition period.
- (3) A certified copy of resolution of the school board(s) receiving capital outlay appropriations from the county on capital outlay requirements that the school board(s) anticipate during each year of the petition period. The resolution may contain such additional information and comments as the Board may deem appropriate.

History Note: Authority G.S. 105-487(c); 159-3(f);
Eff. November 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0905 MUNICIPALITY USE OF SALES TAXES PURSUANT TO G.S.105-487(C)

(a) Any municipality desiring to make application to the Commission under G.S. 105-487(c) shall submit Form LGC-102, Application to Use Allocated Additional Sales Tax Revenues for Other Than Water and Wastewater Capital Needs, including debt service.

(b) The following documents shall be attached to the application:

- (1) A certified copy of the resolution of the governing board. The resolution shall contain as a minimum the following:
 - (A) The petition to the commission;
 - (B) The period for which the petition is to apply;
 - (C) The projected capital needs for water and wastewater in the municipality or its extraterritorial service area during each year of the petition period;
 - (D) The sources from which the governing board intends to make appropriations to meet the water and wastewater capital needs during the petition period; and
 - (E) If the proposal contemplates the use of borrowed funds, the resolution shall identify the revenue sources to be used for repayment and the Board's reasoning for using borrowed funds as opposed to the pay-as-you-go concept inherent in the legislation authorizing the levy of the additional sales tax.
- (2) A certification from the Health Services Division of the Department of Human Resources that the municipality's water system meets minimum state standards and an estimate of the future capital needs for adequate water during each year of the petition period.
- (3) A certification from the Environmental Management Division of the Department of Natural Resources that the municipality's wastewater system meets minimum state standards and estimated future capital needs for adequate wastewater service during each year of the petition period.

History Note: Authority G.S. 105-487(c); 159-3(f);
Eff. November 1, 1983;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0906 ANNEXATION: REQUESTS BY RURAL FIRE DEPARTMENT

(a) A rural fire department may apply, pursuant to G.S. 160A-37.1 and 49.1, to the Commission for an order staying the operation of an annexation ordinance where it is alleged that no good faith offer of compensation has been made.

(b) The request shall be made in letter form signed by the president and secretary of the rural fire department. To this letter shall be attached the following:

- (1) A certified copy of the resolution of the governing body of the fire department. The resolution shall contain as a minimum:
 - (A) The petition to the commission;
 - (B) The circumstances surrounding the annexation including all substantive dates.
- (2) The history of the rural fire department with emphasis on changes in jurisdiction and debt during the period beginning 12 months prior to the adoption of intent with respect to the annexation.
- (3) A map showing both the areas of jurisdiction of the fire department, any special districts related thereto, and the area to be annexed.

- (4) A summary of discussions, meetings, etc. relating to any negotiations or requests by the rural fire department for fair compensation as defined in the law.
- (c) The request shall be processed as provided in 20 NCAC 3.0901 except that the Secretary shall hold a conference at which both the city and the rural fire department shall be invited.
- (d) The Commission hereby authorizes the secretary to issue, in his discretion, an order staying the annexation ordinance until the business day after the next actual meeting of the Commission or the executive committee thereof. The Secretary may in his discretion, vacate his order prior to expiration.

History Note: Authority G.S. 159-3(f); 160A-37.1; 160A-49.1;
Eff. April 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .0907 ANNEXATION: ASSUMPTION OF DEBT

- (a) A city and a rural fire department may request the approval of a payment schedule for a share of the debt of the rural fire department to be paid by the city.
- (b) The request shall be in letter form and shall be signed by the chairman and clerk to the governing board for the city and by the president and secretary for the rural fire department. The request shall include as a minimum the following:
- (1) A map showing the jurisdiction of the rural fire department, any special districts related thereto and the area annexed;
 - (2) A summary of the history of the issuance or incurrence of the debt including all substantive dates;
 - (3) The payment schedule of the total debt and of the portion to be paid by the city;
 - (4) The calculation of the amount(s) to be paid by the city;
 - (5) Certified copies of resolutions of the governing boards of the city and of the rural fire department agreeing to the amounts to be paid by the city.
- (c) The request shall be processed as provided in 20 NCAC 3.0901.

History Note: Authority G.S. 159-3(f); 160A-37.2; 160A-49.2;
Eff. April 1, 1984;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

SECTION .1000 - EVIDENTIARY HEARING ON REFUNDING BONDS

20 NCAC 03 .1001 DEFINITIONS

The words and phrases in this Section of the administrative rules will have the same meanings as set forth in G.S. 159-1 and G.S. 159B-3.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1002 WHO MAY REQUEST A HEARING

Any municipality or joint agency that wishes to issue refunding bonds pursuant to G.S. 159B-25(b) and meets the time limits set forth in that subsection of the statute may request an evidentiary hearing before the Local Government Commission.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1003 PETITION FOR HEARING

The municipality or joint agency shall file a petition with the Secretary of the Local Government Commission setting forth the facts upon which its desire to issue refunding bonds is based and any legal arguments supporting its view that issuance of the refunding bonds is proper. The municipality or joint agency shall mail one original and ten copies of the petition to the office of the Secretary of the Local Government Commission at 3200 Atlantic Avenue, Raleigh, North Carolina 27604. No filing fee shall be required.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Amended Eff. October 1, 2017;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1004 HEARING OFFICER

The State Treasurer shall designate the hearing officer responsible for the conduct of the evidentiary hearing and for making a recommendation for decision to the Local Government Commission.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1005 TIME FOR THE HEARING

The evidentiary hearing shall be scheduled by the hearing officer within 30 days of the receipt by the Secretary of the Local Government Commission of a petition requesting the hearing.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1006 NOTICE OF HEARING

The hearing officer shall give notice by certified mail of the time, date and place of the hearing to the petitioner and its member municipalities at least 15 days prior thereto.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1007 CONDUCT OF THE HEARING

- (a) If a party or interested person fails to appear after notice was given, the hearing officer may proceed with the hearing and make its decision in the absence of the party or interested person.
- (b) The petitioner shall be given an opportunity to present arguments on matters of law and policy and an opportunity to present evidence on matters of fact as they relate to the issues set forth in Rule .1009 of this Section.
- (c) The staff for the Local Government Commission shall be given an opportunity, if they so request in writing at least ten days before the scheduled hearing date, to present arguments on matters of law and policy and an opportunity to present evidence on matters of fact as they relate to the issues set forth in Rule .1009 of this Section. A copy of any written request from the staff must be served upon the petitioner and any parties known to have a direct interest in the hearing at the time the request is made.
- (d) The rules of evidence for the hearing shall be as set forth in G.S. 150B-29.
- (e) Official notice may be taken of all facts of which judicial notice may be taken and of other facts within the specialized knowledge of the hearing officer.
- (f) The hearing officer is authorized to issue subpoenas upon his own motion or upon written request.
- (g) An informal record containing in substance the evidence, contentions and arguments presented at the hearing shall be made. A verbatim transcript of the hearing may be requested by the petitioner, a participating party or the

staff to the Commission. The costs of the production of the original verbatim transcript shall be borne by the party requesting it.

(h) The hearing officer is authorized to control the hearing, its length, and the order of the presentation of evidence and arguments and to require the submission of proposed findings and conclusions.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1008 RECOMMENDED DECISION

The hearing officer shall issue a recommended decision in writing containing findings and conclusions as required under G.S. 159B-25(b). The recommended decision shall be issued within ten days of the completion of the hearing or the preparation of a verbatim transcript, whichever occurs last; and shall be presented promptly to the Local Government Commission.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.

20 NCAC 03 .1009 FINAL DECISION

(a) The Secretary shall call a meeting of the Local Government Commission or its Executive Committee within ten days of the receipt of the recommended decision and the review from the hearing officer.

(b) A copy of the final decision shall be served upon the petitioner, and all other parties participating in the hearing by certified mail or personal service.

History Note: Authority G.S. 159-3(f); 159B-25(b);
Eff. November 1, 1990;
Pursuant to G.S. 150B-21.3A, rule is necessary without substantive public interest Eff. January 9, 2018.