

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 836  
Committee Substitute Favorable 4/27/15

Short Title: Local Government Regulatory Reform.

(Public)

Sponsors:

Referred to:

April 15, 2015

A BILL TO BE ENTITLED

AN ACT TO PROVIDE REGULATORY RELIEF FOR LOCAL GOVERNMENTS BY AUTHORIZING CITIES TO RESERVE CERTAIN EASEMENTS WHEN PERMANENTLY CLOSING STREETS AND ALLEYS; BY REPEALING THE REQUIREMENT FOR LICENSING OF GOING OUT OF BUSINESS SALES BY LOCAL GOVERNMENTS; BY PROVIDING FOR ELECTRONIC SUBMISSION OF ABSENTEE BALLOT LISTS BY COUNTY BOARDS OF ELECTION; BY AUTHORIZING THE POTENTIAL USE OF NEW TECHNOLOGY FOR PAPER BALLOTS; AND BY EXEMPTING LOCAL GOVERNMENT REGULAR PAYROLL AND BENEFITS PAYMENTS FROM PREAUDIT CERTIFICATION REQUIREMENTS.

The General Assembly of North Carolina enacts:

**CLARIFY EASEMENT RESERVATION AUTHORITY FOR CITIES CLOSING STREETS AND ALLEYS**

**SECTION 1.** G.S. 160A-299 reads as rewritten:

**"§ 160A-299. Procedure for permanently closing streets and alleys.**

...

(f) A city may reserve ~~its~~a right, title, and interest in any ~~utility improvement~~improvements or ~~easement~~easements within a street closed pursuant to this section. ~~Such~~An easement under this subsection shall include utility, drainage, pedestrian, landscaping, conservation, or other easements considered by the city to be in the public interest. ~~The reservation of an easement under this subsection shall be stated in the order of closing.~~ ~~Such~~The reservation also extends to utility improvements or easements owned by private utilities which at the time of the street closing have a utility agreement or franchise with the city.

...."

**REPEAL LICENSING FOR GOING OUT OF BUSINESS/DISTRESS SALES**

**SECTION 2.(a)** G.S. 66-77 is repealed.

**SECTION 2.(b)** G.S. 66-80 reads as rewritten:

**"§ 66-80. Continuation of sale or business beyond termination date.**

No person shall conduct a closing-out sale or a sale of goods, wares or merchandise damaged by fire, smoke, water or otherwise or a distress sale beyond the termination date specified for such ~~sale, except as otherwise provided for in subsection (b) of G.S. 66-77;~~sale; nor shall any person, upon conclusion of such sale, continue that business which had been



1 represented as closing out or going out of business under the same name, or under a different
2 name, at the same location, or elsewhere in the same city or town where the inventory for such
3 sale was filed for a period of 12 months; nor shall any person, upon conclusion of such sale,
4 continue business contrary to the designation of such sale. As used in this section, the term
5 "person" includes individuals, partnerships, corporations, and other business entities. If a
6 business entity that is prohibited from continuing a business under this section reformulates
7 itself as a new entity or as an individual, whether by sale, merger, acquisition, bankruptcy,
8 dissolution, or any other transaction, for the purpose of continuing the business, the successor
9 entity or individual shall be considered the same person as the original entity for the purpose of
10 this section. If an individual who is prohibited from continuing a business under this section
11 forms a new business entity to continue the business, that entity shall be considered the same
12 person as the individual for the purpose of this section."

13 SECTION 2.(c) This section becomes effective July 1, 2015.

14
15 ELECTRONIC REPORTING FOR COUNTY BOARDS OF ELECTIONS

16 SECTION 3.(a) G.S. 163-232 reads as rewritten:

17 "§ 163-232. Certified list of executed absentee ballots; distribution of list.

18 The county board of elections shall prepare, or cause to be prepared, a list in at least
19 quadruplicate, of all absentee ballots returned to the county board of elections to be counted,
20 which have been approved by the county board of elections, and which have been received as
21 of 5:00 p.m. on the day before the election. At the end of the list, the chairman shall execute the
22 following certificate under oath:

23 "State of North Carolina

24 County of \_\_\_\_\_

25 I, \_\_\_\_\_, chairman of the \_\_\_\_\_ County board of elections, do hereby
26 certify that the foregoing is a list of all executed absentee ballots to be voted in the election to
27 be conducted on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, which have been
28 approved by the county board of elections and which have been returned no later than 5:00 p.m.
29 on the day before the election. I certify that the chairman, member, officer, or employee of the
30 board of elections has not delivered ballots for absentee voting to any person other than the
31 voter, by mail or by commercial courier service or in person, except as provided by law, and
32 have not mailed or delivered ballots when the request for the ballot was received after the
33 deadline provided by law.

34 This the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

35 \_\_\_\_\_
36 (Signature of chairman of
37 county board of elections)

38 Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

39 Witness my hand and official seal.

40 \_\_\_\_\_
41 (Signature of officer
42 administering oath)

43 \_\_\_\_\_
44 (Title of officer)"

45 No later than 10:00 a.m. on election day, the county board of elections shall cause one copy
46 of the list of executed absentee ballots, which may be a continuing countywide list or a separate
47 list for each precinct, to be immediately (i) submitted electronically in a manner approved by
48 the State Board of Elections or (ii) deposited as "first-class" mail to the State Board of
49 Elections. The board shall retain one copy in the board office for public inspection and the
50 board shall cause two copies of the appropriate precinct list to be delivered to the chief judge of
51 each precinct in the county. The county board of elections shall be authorized to call upon the

1 sheriff of the county to distribute the list to the precincts. In addition the county board of  
2 elections shall, upon request, provide a copy of the complete list to the chairman of each  
3 political party, recognized under the provisions of G.S. 163-96, represented in the county.

4 The chief judge shall post one copy of the list immediately in a conspicuous location in the  
5 voting place and retain one copy until all challenges of absentee ballots have been heard by the  
6 county board of elections. Challenges shall be made to absentee ballots as provided in  
7 G.S. 163-89.

8 After receipt of the list of absentee voters required by this section the chief judge shall call  
9 the name of each person recorded on the list and enter an "A" in the appropriate voting square  
10 on the voter's permanent registration record, or a similar entry on the computer list used at the  
11 polls. If such person is already recorded as having voted in that election, the chief judge shall  
12 enter a challenge which shall be presented to the county board of elections for resolution by the  
13 board of elections prior to certification of results by the board.

14 All lists required by this section shall be retained by the county board of elections for a  
15 period of 22 months after which they may then be destroyed."

16 **SECTION 3.(b)** G.S. 163-232.1(c) reads as rewritten:

17 "(c) The board shall post one copy of the most current version of each list in the board  
18 office in a conspicuous location for public inspection and shall retain one copy until all  
19 challenges of absentee ballots have been heard by the county board of elections. The county  
20 board of elections shall cause one copy of each of the final lists of executed absentee ballots  
21 required under subsection (a) and subsection (b) of this section to be (i) submitted  
22 electronically in a manner approved by the State Board of Elections or (ii) deposited as  
23 "first-class" mail to the State Board of Elections. The final lists shall be electronically  
24 submitted or mailed no later than 10:00 a.m. of the next business day following the deadline for  
25 receipt of such absentee ballots. Challenges shall be made to absentee ballots as provided in  
26 G.S. 163-89. In addition the county board of elections shall, upon request, provide a copy of  
27 each of the lists to the chairman of each political party, recognized under the provisions of  
28 G.S. 163-96, represented in the county."

## 30 ALLOW NEW TECHNOLOGY FOR PAPER BALLOTS

31 **SECTION 4.(a)** G.S. 163-165 reads as rewritten:

### 32 "§ 163-165. Definitions.

33 In addition to the definitions stated below, the definitions set forth in Article 15A of  
34 Chapter 163 of the General Statutes also apply to this Article. As used in this Article:

- 35 (1) **(Effective until January 1, 2018)** "Ballot" means an instrument on which a  
36 voter indicates ~~a~~ that voter's choice for a ballot item so that it may be  
37 recorded as a vote for or against a certain candidate or referendum proposal.  
38 The term "ballot" may include a paper ballot to be counted by hand, a paper  
39 ballot to be counted on an electronic scanner, the face of a lever voting  
40 machine, the image on a direct record electronic unit, or a ballot used on any  
41 other voting system.
- 42 (1) **(Effective January 1, 2018)** "Ballot" means an instrument on which a voter  
43 indicates ~~a~~ that voter's choice for a ballot item so that it may be recorded as a  
44 vote for or against a certain candidate or referendum proposal. The term  
45 "ballot" may include a paper ballot to be counted by hand, a paper ballot to  
46 be counted on an electronic scanner, or a paper ballot used on any other  
47 voting system.
- 48 (2) "Ballot item" means a single item on a ballot in which the voters are to  
49 choose between or among the candidates or proposals listed.
- 50 (3) "Ballot style" means the version of a ballot within a jurisdiction that an  
51 individual voter is eligible to vote. For example, in a county that uses

1 essentially the same official ballot, a group office such as county  
2 commissioner may be divided into districts so that different voters in the  
3 same county vote for commissioner in different districts. The different  
4 versions of the county's official ballot containing only those district ballot  
5 items one individual voter may vote are the county's different ballot styles.

6 (4) "Election" means the event in which voters cast votes in ballot items  
7 concerning proposals or candidates for office in this State or the United  
8 States. The term includes primaries, general elections, referenda, and special  
9 elections.

10 (5) "Official ballot" means a ballot that has been certified by the State Board of  
11 Elections and produced by or with the approval of the county board of  
12 ~~elections~~ elections and may include ballots indicating choices of an  
13 individual voter selected electronically and printed in the voting place. The  
14 term does not include a sample ballot or a specimen ballot.

15 (5a) **(Effective January 1, 2018)** "Paper ballot" means an individual paper  
16 document that bears marks made by the voter by hand or through electronic  
17 means.

18 (6) "Provisional official ballot" means an official ballot that is voted and then  
19 placed in an envelope that contains an affidavit signed by the voter certifying  
20 identity and eligibility to vote. Except for its envelope, a provisional official  
21 ballot shall not be marked to make it identifiable to the voter.

22 (7) "Referendum" means the event in which voters cast votes for or against  
23 ballot questions other than the election of candidates to office.

24 (8) "Voting booth" means the private space in which a voter is to mark an  
25 official ballot.

26 (9) "Voting enclosure" means the room within the voting place that is used for  
27 voting.

28 (10) "Voting place" means the building or area of the building that contains the  
29 voting enclosure.

30 (11) "Voting system" means a system of casting and tabulating ballots. The term  
31 includes systems of paper ballots counted by hand as well as systems  
32 utilizing mechanical and electronic voting equipment."

33 **SECTION 4.(b)** G.S. 163-165.5 reads as rewritten:

34 **"§ 163-165.5. Contents of official ballots.**

35 (a) ~~Each~~ Except as provided in this section, each official ballot shall contain all the  
36 following elements:

37 (1) The heading prescribed by the State Board of Elections. The heading shall  
38 include the term "Official Ballot".

39 (2) The title of each office to be voted on and the number of ~~seats to be filled~~  
40 votes allowed in each ballot item.

41 (3) The names of the candidates as they appear on their notice of candidacy filed  
42 pursuant to G.S. 163-106 or G.S. 163-323, or on petition forms filed in  
43 accordance with G.S. 163-122. No title, appendage, or appellation indicating  
44 rank, status, or position shall be printed on the official ballot in connection  
45 with the candidate's name. Candidates, however, may use the title Mr., Mrs.,  
46 Miss, or Ms. Nicknames shall be permitted on an official ballot if used in the  
47 notice of candidacy or qualifying petition, but the nickname shall appear  
48 according to standards adopted by the State Board of Elections. Those  
49 standards shall allow the presentation of legitimate nicknames in ways that  
50 do not mislead the voter or unduly advertise the candidacy. In the case of  
51 candidates for presidential elector, the official ballot shall not contain the

1 names of the candidates for elector but instead shall contain the nominees for  
2 President and Vice President which the candidates for elector represent. The  
3 State Board of Elections shall establish a review procedure that local boards  
4 of elections shall follow to ensure that candidates' names appear on the  
5 official ballot in accordance with this subdivision.

6 (4) Party designations in partisan ballot items.

7 (5) A means by which the voter may cast write-in votes, as provided in  
8 G.S. 163-123. No space for write-ins is required unless a write-in candidate  
9 has qualified under G.S. 163-123 or unless the ballot item is exempt from  
10 G.S. 163-123.

11 (6) Instructions to voters, unless the State Board of Elections allows instructions  
12 to be placed elsewhere than on the official ballot.

13 (7) The printed title and facsimile signature of the chair of the county board of  
14 elections.

15 (b) Notwithstanding subsection (a) of this section, an official ballot created and printed  
16 by use of a voting system in the voting place shall be counted if all of the following apply:

17 (1) Each of the following are printed on that official ballot:

18 a. The date of the election.

19 b. The precinct name or a unique identification code associated with  
20 that ballot style.

21 c. The choices made by the voter for all ballot items in which the voter  
22 cast a vote.

23 (2) The electronic display of the voting system seen by the voter contains all of  
24 the information required by subsection (a) of this section.

25 (3) The voter is capable of reviewing the printed official ballot, and voiding that  
26 ballot, prior to casting that voter's ballot.

27 (4) The voter's choices in and on the electronic display are removed prior to the  
28 next voter using that voting equipment."

## 30 PREAUDIT CERTIFICATIONS

31 SECTION 5.(a) G.S. 159-28 reads as rewritten:

### 32 "§ 159-28. Budgetary accounting for appropriations.

33 (a) Incurring Obligations. – No obligation may be incurred in a program, function, or  
34 activity accounted for in a fund included in the budget ordinance unless the budget ordinance  
35 includes an appropriation authorizing the obligation and an unencumbered balance remains in  
36 the appropriation sufficient to pay in the current fiscal year the sums obligated by the  
37 transaction for the current fiscal year. No obligation may be incurred for a capital project or a  
38 grant project authorized by a project ordinance unless that project ordinance includes an  
39 appropriation authorizing the obligation and an unencumbered balance remains in the  
40 appropriation sufficient to pay the sums obligated by the transaction. Nothing in this section  
41 shall require a contract to be reduced to writing.

42 (a1) Preaudit Requirement. – If an obligation is evidenced by reduced to a written  
43 contract or written agreement requiring the payment of money-money, or is evidenced by a  
44 written purchase order for supplies and materials, the written contract, agreement, or purchase  
45 order shall include on its face a certificate stating that the instrument has been preaudited to  
46 assure compliance with this subsection unless the obligation or a document related to the  
47 obligation has been approved by the Local Government Commission, in which case no  
48 certificate shall be required. (a) of this section. The certificate, which shall be signed by the  
49 finance officer-officer, or any deputy finance officer approved for this purpose by the  
50 governing board, shall take substantially the following form:

1 "This instrument has been preaudited in the manner required by the Local Government  
2 Budget and Fiscal Control Act.

3  
4 \_\_\_\_\_  
(Signature of finance officer)."

5 ~~Certificates in the form prescribed by G.S. 153-130 or 160-411 as those sections read on June~~  
6 ~~30, 1973, or by G.S. 159-28(b) as that section read on June 30, 1975, are sufficient until~~  
7 ~~supplies of forms in existence on June 30, 1975, are exhausted.~~

8 (a2) Failure to Preaudit. – An obligation incurred in violation of this  
9 subsection subsection (a) or (a1) of this section is invalid and may not be enforced. The finance  
10 officer shall establish procedures to assure compliance with this subsection-section, in  
11 accordance with any rules adopted by the Local Government Commission.

12 (b) Disbursements. – When a bill, invoice, or other claim against a local government or  
13 public authority is presented, the finance officer shall either approve or disapprove the  
14 necessary disbursement. If the claim involves a program, function, or activity accounted for in  
15 a fund included in the budget ordinance or a capital project or a grant project authorized by a  
16 project ordinance, the finance officer may approve the claim only if both of the following  
17 apply:

- 18 (1) ~~He~~ The finance officer determines the amount to be ~~payable and~~ payable.  
19 (2) The budget ordinance or a project ordinance includes an appropriation  
20 authorizing the expenditure and either (i) an encumbrance has been  
21 previously created for the transaction or (ii) an unencumbered balance  
22 remains in the appropriation sufficient to pay the amount to be disbursed.

23 The finance officer may approve a bill, invoice, or other claim requiring disbursement from  
24 an intragovernmental service fund or trust or agency fund not included in the budget ordinance,  
25 only if the amount claimed is determined to be payable. A bill, invoice, or other claim may not  
26 be paid unless it has been approved by the finance officer or, under subsection (c) of this  
27 section, by the governing board. The finance officer shall establish procedures to assure  
28 compliance with this ~~subsection-subsection~~, in accordance with any rules adopted by the Local  
29 Government Commission.

30 (c) Governing Board Approval of Bills, Invoices, or Claims. – The governing board  
31 may, as permitted by this subsection, approve a bill, invoice, or other claim against the local  
32 government or public authority that has been disapproved by the finance officer. ~~It~~ The  
33 governing board may not approve a claim for which no appropriation appears in the budget  
34 ordinance or in a project ordinance, or for which the appropriation contains no encumbrance  
35 and the unencumbered balance is less than the amount to be paid. The governing board shall  
36 approve payment by formal resolution stating the board's reasons for allowing the bill, invoice,  
37 or other claim. The resolution shall be entered in the minutes together with the names of those  
38 voting in the affirmative. The chairman of the ~~board-board~~, or some other member designated  
39 for this ~~purpose-purpose~~, shall sign the certificate on the check or draft given in payment of the  
40 bill, invoice, or other claim. If payment results in a violation of law, each member of the board  
41 voting to allow payment is jointly and severally liable for the full amount of the check or draft  
42 given in payment.

43 (d) Payment. – A local government or public authority may not pay a bill, invoice,  
44 salary, or other claim except by any of the following methods:

- 45 (1) ~~a check~~ Check or draft on an official ~~depository,depository.~~  
46 (2) ~~a bank~~ Bank wire transfer from an official ~~depository,depository.~~  
47 (3) ~~or an electronic~~ Electronic payment or an electronic funds transfer originated  
48 by the local government or public authority through an official depository.  
49 (4) Cash, if the local government has adopted an ordinance authorizing the use  
50 of cash, and specifying the limits of the use of cash.

1       (d1) Except as provided in this ~~subsection~~ section, each check or draft on an official  
2 depository shall bear on its face a certificate signed by the finance officer or a deputy finance  
3 officer approved for this purpose by the governing board (or signed by the chairman or some  
4 other member of the board pursuant to subsection (c) of this section). The certificate shall take  
5 substantially the following form:

6       "This disbursement has been approved as required by the Local Government Budget and  
7 Fiscal Control Act.

8  
9       \_\_\_\_\_  
10       (Signature of finance officer)."

11       (d2) An electronic payment or electronic funds transfer ~~must shall be subjected~~ subject to  
12 the pre-audit process. Execution preaudit process in accordance with this section and any rules  
13 adopted by the Local Government Commission. The rules so adopted shall address execution of  
14 the electronic payment or electronic funds transfer shall and how to indicate that the finance  
15 officer or duly appointed deputy finance officer has performed the pre-audit preaudit process as  
16 required by G.S. 159-28(a) in accordance with this section. A finance officer or duly appointed  
17 deputy finance officer shall be presumed in compliance with this section if the finance officer  
18 or duly appointed deputy finance officer complies with the rules adopted by the Local  
19 Government Commission.

20 ~~Certificates in the form prescribed by G.S. 153-131 or 160-411.1 as those sections read on June~~  
21 ~~30, 1973, or by G.S. 159-28(a) as that section read on June 30, 1975, are sufficient until~~  
22 ~~supplies in existence on June 30, 1975, are exhausted.~~

23 ~~No certificate is required on payroll checks or drafts on an imprest account in an official~~  
24 ~~depository, if the check or draft depositing the funds in the imprest account carried a signed~~  
25 ~~certificate.~~

26 ~~As used in this subsection, the term "electronic payment" means payment by charge card,~~  
27 ~~credit card, debit card, or by electronic funds transfer, and the term "electronic funds transfer"~~  
28 ~~means a transfer of funds initiated by using an electronic terminal, a telephone, a computer, or~~  
29 ~~magnetic tape to instruct or authorize a financial institution or its agent to credit or debit an~~  
30 ~~account.~~

31       (e) Penalties. – If an officer or employee of a local government or public authority  
32 incurs an obligation or pays out or causes to be paid out any funds in violation of this section,  
33 ~~he that officer or employee, and the sureties on his any official bond for that officer or~~  
34 ~~employee, are liable for any sums so committed or disbursed. If the finance officer or any~~  
35 ~~properly designated duly appointed deputy finance officer gives a false certificate to any~~  
36 ~~contract, agreement, purchase order, check, draft, or other document, he the finance officer or~~  
37 ~~duly appointed deputy finance officer, and the sureties on his any official bond bond, are liable~~  
38 ~~for any sums illegally committed or disbursed thereby. The governing board shall determine,~~  
39 ~~by resolution, if payment from the official bond shall be sought and if the governing body will~~  
40 ~~seek a judgment from the finance officer or duly appointed deputy finance officer for any~~  
41 ~~deficiencies in the amount.~~

42       (f) The certifications required by subsections (a1) and (d) of this section shall not apply  
43 to any of the following:

44       (1) An obligation or a document related to the obligation has been approved by  
45 the Local Government Commission.

46       (2) Payroll expenditures, including all benefits for employees of the local  
47 government.

48       (3) Electronic payments, as specified in rules adopted by the Local Government  
49 Commission.

50       (g) As used in this section, the following terms shall have the following meanings:

51       (1) Electronic payment. – Payment by charge card, credit card, debit card, gas  
card, procurement card, or electronic funds transfer.

1           (2) Electronic funds transfer. – A transfer of funds initiated by using an  
2           electronic terminal, a telephone, a computer, or magnetic tape to instruct or  
3           authorize a financial institution or its agent to credit or debit an account."

4           **SECTION 5.(b)** This section becomes effective July 1, 2015, and applies to  
5 expenditures incurred on or after that date.

6

7 **EFFECTIVE DATE**

8           **SECTION 6.** The remainder of this act is effective when it becomes law.