



HOUSE BILL 1064: Various Local Provisions III.

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2023-2024 General Assembly

Committee:	Senate State and Local Government. If favorable, re-refer to Rules and Operations of the Senate	Date:	June 20, 2024
Introduced by:	Rep. Miller	Prepared by:	Brad Krehely, Jessica Sammons, Erika Churchill Staff Attorneys
Analysis of:	PCS to First Edition H1064-CSST-65		

OVERVIEW: *The proposed committee substitute (PCS) for House Bill 1064 would make various changes to multiple local acts.*

CURRENT LAW and BILL ANALYSIS:

Charter Amendments: (Bermuda Run, Southern Pines, and Wrightsville Beach)

Bermuda Run, Section 1. The Town of Bermuda Run is represented by a mayor and five councilmembers serving staggered, four-year terms. The five councilmembers run at-large. The Town of Bermuda Run conducts its municipal elections in the odd-numbered years using the nonpartisan primary method, in accordance with G.S. 163-294.

The Town of Bermuda Run operates under a Council-Manager form of government. The Town Council has the authority to appoint officers and employees, and the Town Council also has the authority to appoint a Town Clerk. Under its charter, for the Town of Bermuda Run to increase property tax rates in excess of \$.15 per \$100 of valuation, the Town must first receive the vote or consent of the majority of the Town's residents.

The PCS would do the following with respect to the Town of Bermuda Run:

- Provide that officers of the Town would be nominated and elected using the nonpartisan plurality method, in accordance with G.S. 163-292.
- Provide the Town Manager with all of the powers and duties provided in G.S. 160A-148, including the authority to appoint, suspend, or remove all city officers and employees not elected by the Town's residents, and whose appointments or removal are not otherwise provided for by law, excluding the Town Attorney.
- Clarify that an affirmative vote by the qualified voters, not residents, of the Town is required before the Town can increase its property tax rates in excess of \$.15 per \$100 of valuation.

Southern Pines, Section 3. The Charter of the Town of Southern Pines provides that at least three affirmative votes are necessary for the passage of any order, ordinance, or resolution. The Town Council is composed of four members and a mayor. The mayor is a voting member of the Town Council.

Jeffrey Hudson
Director



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G.S. 160A-75 provides that (i) a majority vote of all members of the town council is required to adopt an ordinance or any action having the effect of an ordinance and (ii) except for an ordinance requiring a public hearing, an affirmative vote of at least two thirds of the members of town council is required to adopt an ordinance or any action having the effect of an ordinance on the date on which it is introduced. An ordinance is deemed introduced on the date the subject matter is first voted on by the town council.

The PCS would amend the Charter of the Town of Southern Pines to provide that an ordinance or any action having the effect of an ordinance can be finally adopted by a majority of the town council members on the date of introduction.

Wrightsville Beach, Section 4. The Charter of the Town of Wrightsville Beach authorizes proposed Town ordinances to be submitted by petition of the voters of the Town to the Board of Aldermen. The proposed Town ordinance submitted must be one that the Board may lawfully adopt. This process is often referred to as an initiative petition. Other municipalities with initiative petition processes in their charters include Asheville, Charlotte, Greensboro, Lewisville, Lumberton, Raleigh, River Bend, and Wilmington.

In Wrightsville Beach, upon receipt of a verified petition, the Town Board must do one of the following within 20 days if the number of voters signing the petition is equal to or greater than 35% of the total number of voters voting in the last regular municipal election for the Town of Wrightsville Beach:

- Pass the ordinance without alteration.
- Call a special election to submit the proposed ordinance to the voters, and hold the special election within six months, unless a general election is scheduled within those six months.

The PCS would, effective when it becomes law and applying to petitions submitted on or after that date, amend the Charter of the Town of Wrightsville Beach to clarify the threshold signatory requirement for initiative petitions is 35% of the total number of registered voters residing within the Town at the time of the last regular municipal election and specify that the referendum, if one is to be held, occurs on one of the following dates:

- At the same time as any other State or county general election.
- At the same time as the primary election in any even-numbered year.
- At the same time as any other election requiring all the precincts in the county to be open.
- At the same time as a municipal general election, if the special election is within the jurisdiction of the municipality only.

Real Property Disposal: (Statesville Regional Airport, Foothill Regional Airport Authority)

Statesville Regional Airport, Section 2.

Local governments generally dispose of real and personal property in accordance with the procedures established by Article 12 of Chapter 160A. Subject to certain conditions for each method, a local government can dispose of real or personal property by any of the following means:

- Private negotiation and sale.
- Advertisement for sealed bids.
- Negotiated offer, advertisement, and upset bid.
- Public auction.
- Exchange.
- Lease.

Generally, any property owned by a city may be leased or rented for such terms and upon such conditions as the council may determine, but not for longer than 10 years and only if the council determines that the

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property will not be needed by the city for the term of the lease. In determining the term of a proposed lease, periods that may be added to the original term by options to renew or extend must be included.

Under G.S. 160A-272(b1), a local government may lease real property for longer than 10 years, but a lease term of more than 10 years must be treated as a sale of the real property and executed by following any of the procedures authorized for sale of real property.

Under general law and through local acts modifying the General Statutes, the City of Statesville may lease airport property for up to 25 years without treating it as a sale of property and without following competitive bidding.

The PCS would allow the City of Statesville to lease property at the Statesville Regional Airport for up to 35 years without treating it as a sale.

Foothills Regional Airport Authority, Section 8. The Foothills Regional Airport Authority was established in 2000, by the Counties of Burke and Caldwell and the municipalities of Lenoir and Morganton. The Airport Authority was granted certain powers and authorities including:

- Establishing, maintaining, and operating airports and landing fields for the use of airplanes and other aircraft.
- Suing, and being sued, and making contracts, in the name of the Airport Authority.
- Charging and collecting reasonable and adequate fees and rents for the use of airport property.
- Selling, leasing, or otherwise disposing of any real or personal property belonging to the Airport Authority, in accordance with Article 12 of Chapter 160A of the General Statutes.
- Operating, owning, leasing, or granting to others, for a period not to exceed 20 years, the right to operate on any airport premises restaurants, snack bars, vending machines, food and beverage dispensing outlets, rental car services, catering services, novelty shops, insurance sales, advertising media, merchandising outlets, motels, hotels, barber shops, automobile parking and storage facilities, automobile service establishments, and all other types of facilities related to the airport.
- Contracting, for terms not to exceed 20 years, for the operation of airline-scheduled passenger and freight flights, nonscheduled flights, and any other airplane activities.
- Constructing buildings, hangars, shops, and other improvements and facilities, and lease those improvements and facilities for a term or terms not to exceed 20 years.

The PCS would amend the powers and duties of the Foothills Regional Airport Authority to permit that body to enter into leases for a period of up to 50 years for hotels or places of accommodation, industrial or manufacturing facilities, aircraft hangars, aircraft maintenance and repair facilities, and other similar facilities which are directly related to aeronautical activities or to the maintenance or furnishing of air terminal services, rather than the current authorization for up to 20 years.

Board of Education Elections: (Jackson County, Polk County)

Jackson County, Section 5. The Jackson County Board of Education consists of five members, each representing a single-member residency district. Members must reside in the district they represent, but all members are elected by all qualified voters of the county. The members are elected using the non-partisan election and runoff method in accordance with G.S. 163-293 and serve staggered four-year terms. The election takes place at the time of the primary election in even-numbered years.

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The PCS would provide that, beginning with the 2026 election cycle, elections for the Jackson County Board of Education would be held at the time of the general election, using the nonpartisan plurality method in accordance with G.S. 163-292.

Polk County, Section 7. The Polk County Board of Education consists of seven members elected from six residency districts. One district, the Township of Tryon, is a two-member district; all other districts are single-member districts. Members must reside in the district they represent, but all members are elected by all qualified voters of the county. The members are elected on a partisan basis to serve staggered four-year terms. Elections are held in even-numbered years at the time of the general election for county officers.

The PCS would provide that, beginning with the 2026 election cycle, six members of the Polk County Board of Education be elected from six single-member residency districts, and one member be elected from the county at-large. To implement this, the Township of Tryon would become a single-member district, rather than a two-member district.

ABC Profit Distribution: (Jones County, Section 6)

Chapter 18B of the General Statutes controls the regulation of alcoholic beverages. G.S.18B-805(b)-(e) provide for the distribution of local ABC revenue in the following priority:

- Subsection (b) – Primary distributions.
- Subsection (c) – Secondary distributions, including a mandatory amount for law enforcement of at least 5% which is required of all local boards regardless of the provisions of any local act.
- Subsection (d) – Retention of revenue for working capital.
- Subsection (e) – Local board shall pay each quarter the remaining gross receipts to the general fund of the city or county for which the board is established unless some other distribution is provided for by law.

The distributions required under G.S. 18B-805(c) and (e) are made each quarter.

The PCS would require the Jones County Alcoholic Beverage Control Board to make certain ABC profit distributions annually, on September 30 of each year, instead of quarterly.

EFFECTIVE DATE: Except as noted above, effective when it becomes law.