SENATE BILL 299:
Reimburse Late Audit Costs with Sales Tax Rev.

2023-2024 General Assembly

Committee:		**Date:**	June 27, 2023
Introduced by:	Sens. Barnes, Johnson	**Prepared by:**	Trina Griffin
Analysis of:	Ratified		Staff Attorney

***OVERVIEW:** Senate Bill 299 would authorize the Local Government Commission to withhold a county or municipality's sales tax distribution if the county or municipality fails to submit an annual audit report. The amount withheld would be equivalent to 150% of the cost of the required audit.*

CURRENT LAW: G.S. 159-34 requires each unit of local government and public authority to have its accounts audited as soon as possible after the close of each fiscal year by a certified public accountant or by an accountant certified by the Local Government Commission ("LGC") as qualified to audit local government accounts. The finance officer of the local unit must file a copy of the completed audit report with the Secretary of the LGC, who determines if the audit and audit report substantially conform to the statutory requirements prior to giving their approval.

BILL ANALYSIS: Senate Bill 299 would authorize the LGC to withhold a county or municipality's sales tax distributions if they fail to submit an annual audit report. The LGC must provide a notice of noncompliance if a county or municipality fails to submit a copy of their annual audit report within 9 months of their fiscal year ending. If the county or municipality fails to comply with the notice of noncompliance and submit their annual audit report to the LGC within 12 months of their fiscal year ending, the county or municipality will be deemed to have given consent to have a portion of their sales tax distributions withheld.

Upon receiving a notice of noncompliance, the county or municipality would have the opportunity to appeal. The LGC would be required to establish guidelines outlining specific criteria that would warrant a successful appeal. The county or municipality could appeal at any time after receiving the notice of noncompliance and, if the appeal is successful, receive relief. If the successful appeal occurs before withholding begins, the start of any withholding would be delayed. If the successful appeal occurs after withholding begins, any amounts withheld will be returned to the county or municipality.

The total cumulative amount of sales tax distributions withheld would be 150% of the cost of the required audit. The withholding would come from the sales tax distributions under G.S. 105-486 (first 1/2 cent local government sales and use tax) and G.S. 105-501 (second 1/2 cent local government sales and use tax). The Secretary of the LGC must send written notice to the Secretary of Revenue to begin withholding. Once the Secretary of Revenue receives the notice, they must withhold the total cumulative amount from the appropriate sales and use tax distributions, however, the withholding may not exceed 5% of 1/12 of the county or municipality's annual general fund budget for the year in which the withholding begins.

The Department of Revenue must release any withheld funds back to the county or municipality after the earlier of the following:

- 2 years from the date of notification for the funds to be withheld.

Jeffrey Hudson
Director

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- When the Secretary of Revenue receives notice from the Secretary of the LGC that either (i) the appropriate audit report was filed and accepted, or (ii) the county or municipality has successfully appealed the withholding of sales and use tax distributions.

The LGC would be required to establish the appeal guidelines before a notice of noncompliance could be issued to any county or municipality. The guidelines could be completed prior to January 1, 2024, however, the guidelines could not become effective until on or after that date.

EFFECTIVE DATE: Section 1 of the act would become effective January 1, 2024, and apply to audits for fiscal years ending on or after June 30, 2023. The remainder of the act would become effective when it becomes law.

Nicholas Giddings, counsel to House Local Government, substantially contributed to this summary.