

**NORTH CAROLINA DEPARTMENT OF STATE TREASURER
LOCAL GOVERNMENT COMMISSION**

MINUTES

January 9, 2024

The meeting was called to order by Chairman Dale R. Folwell at 1:30 p.m., on the above date. The meeting was conducted in person and by use of simultaneous communication by GoToWebinar™. Members present in person: Chair Folwell, Secretary of State Elaine Marshall, John Burns, and Paul Butler. Members present virtually: Secretary of Revenue Ronald Penny, Nancy Hoffmann, and Mike Philbeck. State Auditor Jessica Holmes was present but was not counted for quorum purposes and did not participate in any actions.

Members absent: Vida Harvey.

A quorum was present for the entire meeting.

Other DST participants present in person: Debbie Tomasko, Jennifer Wimmer, Kendra Boyle, Tony Blalock, and Cindy Aiken.

Others attending in person: DST staff Joah Bickley, MJ Vieweg, and Ted Brinn; Bill Toole (Secretary of State office).

Chair Folwell asked those members present if they had any actual, potential, or the appearance of a conflict of interest regarding the matters on the agenda. No conflicts were reported.

Ms. Hoffmann made a motion to approve the minutes of the December 5, 2023 meeting. Secretary Marshall seconded the motion, and the minutes were approved by unanimous vote of 7 – 0 (Absent: Harvey).

Legal Counsel Cindy Aiken reviewed the Memorandum explaining abstentions, recusals from voting, and conflicts of interest analysis. A discussion and a question-and-answer period followed. The Memorandum is attached to these minutes and is labelled **“EXHIBIT 2”**.

Chair Folwell called the members’ attention to the OPEB & Pension Liabilities report attached to these minutes and is labelled **“EXHIBIT 1”**.

TOWN OF LIBERTY

Mr. Burns made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF LIBERTY, NORTH CAROLINA. THIS PROJECT IS A LEASE-TO-PURCHASE AGREEMENT TO ACQUIRE PUBLIC SAFETY RADIOS (THE “PROJECT”) PURSUANT TO G.S. 160A-20.

WHEREAS, the Town of Liberty, North Carolina (the “Town”) has determined that

the Project is necessary and expedient to acquire fire and police department public safety radios to maintain compliance with NCDPS NC Viper Statewide Radio System; and

WHEREAS, pursuant to Section 160A-20 of the General Statutes of North Carolina, the Town intends to finance the Project through a lease-to-purchase agreement (the "Contract") with Motorola Solutions, Inc. whereby the Town, subject to its right of nonappropriation, shall pay for the Project, with interest; and

WHEREAS, the principal amount of the Contract shall not exceed \$214,122 with level annual payments for a term of five (5) years at an approved interest rate of 6.230%; and

WHEREAS, pursuant to Article 8, Chapter 159 of the General Statutes of North Carolina, as a local government on the Unit Assistance List, the Town has made proper application to the North Carolina Local Government Commission (the "Commission") for approval of the proposed financing pursuant to S.L. 2022-53, s. 6; and

WHEREAS, the Secretary of the Commission has determined that the unit has complied with G.S. 159-149; and

WHEREAS, the Commission, pursuant to G.S. 159-151(b), upon information and evidence received, finds, and determines as follows:

- (i) that the proposed Project is necessary and expedient for the Town;
- (ii) that the proposed undertaking cannot be economically financed by a bond issue;
- (iii) that the sums to fall due under the Contract are adequate and not excessive for its proposed purpose; and
- (iv) that the Contract will not require an excessive increase in taxes.

NOW, THEREFORE, BE IT RESOLVED by the North Carolina Local Government Commission that the application for approval of the Contract and the planned financing are hereby approved under the provisions of G.S. 160A-20, as amended, Article 8 of Chapter 159 of the General Statutes, as amended, and relevant resolutions of the Commission."

Scott Kidd, Town Manager and Janie Phelps, Asst. Town Manager attended virtually to speak and answer Commission members' questions.

Mr. Butler seconded the motion, and the foregoing resolution was adopted by unanimous vote of 6 – 0 (Absent: Harvey; Secretary Penny stated he was unable to hear the discussion and abstained from the vote).

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BEGIN CONSENT AGENDA
TOWN OF BEECH MOUNTAIN

Secretary Marshall made a motion to adopt the following resolution:

**“RESOLUTION APPROVING THE APPLICATION OF THE TOWN
OF BEECH MOUNTAIN, NORTH CAROLINA FOR THE ISSUANCE
OF NOT TO EXCEED
\$15,000,000 GENERAL OBLIGATION BONDS”**

WHEREAS, the Town of Beech Mountain, North Carolina (the “Town”) has applied to the North Carolina Local Government Commission (the “Commission”) and requested the Commission’s approval of the issuance of not exceeding \$15,000,000 General Obligation Water Bonds of the Town (the “Bonds”); and

WHEREAS, the Bonds were approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023;

WHEREAS, the Town will use the proceeds of the Bonds consistent with the voter approved referendum to pay capital costs of improving the Town of Beech Mountain’s water system, including, without limitation, the acquisition, construction and installation of a reservoir and related pumping station, pipes and improvements, and other facilities and equipment for the supply, storage, treatment, and distribution of water;

WHEREAS, based upon the information and evidence received in connection with such application to the Commission, it is determined and found by the Commission:

- (i) that said Bonds are necessary or expedient;
- (ii) that the proposed amount of said Bonds is adequate and not excessive for the proposed purpose thereof;
- (iii) that the debt management procedures and policies of the Town are good and reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law;
- (iv) that the increase in taxes, if any, necessary to service said Bonds will not be excessive; and
- (v) that said Bonds can be marketed at reasonable rates of interest;
- (vi) the assumptions used by the finance officer of the Town in preparing the Statement of Disclosure filed with the Town Clerk pursuant to Section 159-55.1(a) of the General Statutes of North Carolina are reasonable.

WHEREAS, the Town may issue the Bonds in one or more series as determined by the Town;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the application of the Town of Beech Mountain for approval of the issuance of not to exceed \$15,000,000 aggregate principal amount of the Town of Beech Mountain General Obligation Water Bonds is hereby approved. This constitutes the entering of the Commission's order approving the application for the Bonds under Section 159-53 of the General Statutes of North Carolina, as amended.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a unanimous vote of 7 – 0 (Absent: Harvey).

Thereupon, Secretary Marshall made a motion to adopt the following resolution:

**“RESOLUTION APPROVING THE FINANCING TEAM FOR NOT TO EXCEED
\$15,000,000 TOWN OF BEECH MOUNTAIN NORTH CAROLINA
GENERAL OBLIGATION BONDS”**

WHEREAS, the Town of Beech Mountain (the “Town”) has engaged the services of Parker Poe Adams & Bernstein LLP as Bond Counsel to the Town and First Tryon Advisors as financial advisor to the Town in connection with the issuance and sale of its General Obligation Water Bonds, approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023, and has requested that the North Carolina Local Government Commission (the “Commission”) approves its financing team; and

WHEREAS, based upon the information and evidence received in connection with such request, the Commission is of the opinion that the request of the Town should be approved;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the financing team engaged by the Town is hereby approved.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a unanimous vote of 7 – 0 (Absent: Harvey).

TOWN OF FUQUAY-VARINA

Secretary Marshall made a motion to adopt the following resolution:

**“RESOLUTION APPROVING THE FINANCING TEAM FOR THE TOWN
OF FUQUAY-VARINA REVENUE BONDS**

WHEREAS, The Town of Fuquay-Varina (the “Town”) has requested that the North Carolina Local Government Commission (the “Commission”) approve its selection of the following financing team members for its upcoming issue of revenue bonds:

Bond Counsel:	Sanford Holshouser LLP
Underwriter:	Robert W. Baird & Co. Incorporated
Financial Advisor:	Davenport & Company LLC
Feasibility Consultant:	Stantec Consulting Services, Inc.
Underwriter's Counsel:	Womble Bond Dickinson (US) LLP
Trustee:	U.S. Bank Trust Company, National Association
Trustee's counsel:	McGuireWoods LLP

WHEREAS, based upon the information and evidence received by the Commission, it is of the opinion that the Town's request should be approved;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the above financing team is approved for the Town's proposed issue of revenue bonds."

Mr. Burns seconded the motion and the foregoing resolution was adopted by unanimous vote of 7 – 0 (Absent: Harvey).

Then, Secretary Marshall made a motion to adopt the following resolution:

**“RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF
FUQUAY-VARINA FOR THE ISSUANCE OF REVENUE BONDS IN AN
AMOUNT NOT TO EXCEED \$85,000,000**

WHEREAS, the Town of Fuquay-Varina (the “Town”) has applied to the North Carolina Local Government Commission (the “Commission”), pursuant to The State and Local Government Revenue Bond Act (Article 5, Chapter 159 of the General Statutes, as amended), for approval of the issuance of revenue bonds to pay costs related to sewer system improvements and to pay financing expenses;

WHEREAS, the Town has furnished to the Commission documents and other information related to the financing and the security for the bonds;

WHEREAS, the principal amount of the bonds will not exceed \$85,000,000;

WHEREAS, the maturity of the bonds will not extend beyond February 1, 2049, and the true interest cost of the bonds will not exceed 5.50%;

WHEREAS, the Commission, pursuant to G.S. 159-86, upon information and evidence received, finds, and determines as follows:

- (i) that the project is necessary or expedient for the Town;
- (ii) that the amount proposed is adequate and not excessive for the proposed purpose of the issue;
- (iii) that the project is feasible;
- (iv) that the Town's debt management procedures and policies are good; and
- (v) that the proposed bonds can be marketed at reasonable interest cost to the Town.

NOW, THEREFORE, BE IT RESOLVED by the Commission (1) that the application for approval of the bonds is approved under the provisions of the Revenue Bond Act and relevant resolutions of the Commission, and (2) that the Secretary of the Commission, or any Designated Assistant, is authorized to execute and deliver appropriate documents to evidence the Commission's approval and otherwise to carry out the financing contemplated by this approval."

Mr. Burns seconded the motion and the foregoing resolution was adopted by unanimous vote of 7 – 0 (Absent: Harvey).

Then, Secretary Marshall made a motion to adopt the following resolution:

**"RESOLUTION APPROVING THE PRIVATE SALE OF TOWN OF
FUQUAY-VARINA REVENUE BONDS IN THE MAXIMUM AMOUNT
OF \$85,000,000**

WHEREAS, the North Carolina Local Government Commission (the "Commission") has previously approved the issuance by the Town of Fuquay-Varina, North Carolina (the "Town"), of revenue bonds in the maximum amount of \$85,000,000 pursuant to The State and Local Government Revenue Bond Act (Article 5, Chapter 159 of the General Statutes, as amended);

WHEREAS, Article 7, as amended, of Chapter 159 of the General Statutes authorizes the Commission to sell revenue bonds at private sale without advertisement to any purchasers thereof at such prices as the Commission determines to be in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit or one or more persons designated by resolution of such governing board to approve such prices; and

WHEREAS, the Town has requested the Commission to undertake such a private sale of the bonds;

WHEREAS, the Commission has received a draft of a Bond Purchase Agreement (the “Bond Purchase Agreement”) relating to the sale of the bonds proposed to be entered into among the Town, the Commission and Robert W. Baird & Co. Incorporated (“Baird”), by which Baird proposes to purchase the bonds after a public offering;

WHEREAS, the Commission desires to approve the request of the Town that it sell the bonds at private sale without advertisement; and

WHEREAS, the Commission desires to accept Baird’s offer to purchase the bonds substantially as set forth in the draft Bond Purchase Agreement and upon the terms and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED by the Commission, as follows:

Section 1. The sale of the bonds to Baird at private sale without advertisement pursuant to an executed Bond Purchase Agreement substantially in the form of the draft furnished to the Commission is hereby approved, such sale being subject to the approval of the Town and satisfaction of the conditions set forth below.

Section 2. The aggregate principal amount of the bonds shall not exceed \$85,000,000, and the purchase price for the bonds shall be equal to at least 98% of the par amount of the bonds offered.

Section 3. The bonds shall bear interest at an annual true interest not to exceed 5.50%.

Section 4. The final maturity of the bonds shall not extend beyond February 1, 2049.

Section 5. The Commission hereby determines that the sale of the bonds in the manner and for the price as provided in this resolution is in the best interest of the Town, provided that the sale is approved by the Town (which may include approval by one or more persons designated by resolution of the Town Board for that purpose).

Section 6. The Secretary of the Commission or any Deputy Secretary is hereby appointed the Designated Assistant of the Commission for the purpose of this resolution, and the Designated Assistant is hereby authorized and directed, within the terms and conditions of this resolution, to approve changes to the Bond Purchase Agreement, including details of the bonds, as may be satisfactory to that officer, to approve the forms of other documents relating to the bonds, to execute and deliver the Bond Purchase Agreement and such other documents on behalf of the Commission and to provide for the execution and delivery of the bonds in accordance with the Bond Purchase Agreement and the resolution adopted by the Town Board.

Section 7. This resolution takes effect immediately.”

Mr. Burns seconded the motion and the foregoing resolution was passed by unanimous vote of 7 – 0 (Absent: Harvey).

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TOWN OF HOLLY SPRINGS

Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF HOLLY SPRINGS, NORTH CAROLINA FOR THE ISSUANCE OF NOT TO EXCEED \$100,000,000 GENERAL OBLIGATION BONDS”

WHEREAS, the Town of Holly Springs, North Carolina (the “Town”) has applied to the North Carolina Local Government Commission (the “Commission”) and requested the Commission’s approval of the issuance of not exceeding \$100,000,000 General Obligation Bonds of the Town (the “Bonds”); and

WHEREAS, the Bonds were approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023;

WHEREAS, the Town will use the proceeds of the Bonds consistent with the voter approved referendum to pay the costs of acquiring, constructing, renovating, and improving parks and recreation facilities and greenways, including related offsite public infrastructure development and the acquisition of any necessary furnishing and equipment, land, rights-of-way, and easements in land required therefor;

WHEREAS, based upon the information and evidence received in connection with such application to the Commission, it is determined and found by the Commission:

- (vii) that said Bonds are necessary or expedient;
- (viii) that the proposed amount of said Bonds is adequate and not excessive for the proposed purpose thereof;
- (ix) that the debt management procedures and policies of the Town are good and reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law;
- (x) that the increase in taxes, if any, necessary to service said Bonds will not be excessive;
- (xi) that said Bonds can be marketed at reasonable rates of interest; and
- (xii) the assumptions used by the finance officer of the Town in preparing the Statement of Disclosure filed with the Town Clerk pursuant to Section 159-55.1(a) of the General Statutes of North Carolina are reasonable.

WHEREAS, the Town may issue the Bonds in one or more series as determined by the Town;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the application of the Town for approval of the issuance of not to exceed \$100,000,000 aggregate principal amount of the Town of Holly Springs General Obligation Bonds is hereby approved. This constitutes the entering of the Commission's order approving the application for the Bonds under Section 159-53 of the General Statutes of North Carolina, as amended.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a vote of 7 – 0 (Absent: Harvey).

Thereupon, Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE FINANCING TEAM FOR NOT TO EXCEED \$100,000,000 TOWN OF HOLLY SPRINGS NORTH CAROLINA GENERAL OBLIGATION BONDS”

WHEREAS, the Town of Holly Springs (the “Town”) has engaged the services of Parker Poe Adams & Bernstein LLP as Bond Counsel to the Town and DEC Associates Inc. as financial advisor to the Town in connection with the issuance and sale of its General Obligation Bonds, approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023, and has requested that the North Carolina Local Government Commission (the “Commission”) approve its financing team; and

WHEREAS, based upon the information and evidence received in connection with such request, the Commission is of the opinion that the request of the Town should be approved;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the financing team engaged by the Town is hereby approved.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a vote of 7 – 0 (Absent: Harvey).

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TOWN OF HUNTERSVILLE

Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF HUNTERSVILLE, NORTH CAROLINA FOR THE ISSUANCE OF NOT TO EXCEED \$50,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS AND NOT TO EXCEED \$8,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS”

WHEREAS, the Town of Huntersville, North Carolina (the “Town”) has applied to the North Carolina Local Government Commission (the “Commission”) and requested the Commission’s approval of the issuance of not exceeding \$50,000,000 General Obligation Transportation Bonds of the Town (the “Transportation Bonds”) and the issuance of not exceeding \$8,000,000 General Obligation Parks and Recreation Bonds of the Town (the “Parks and Recreation Bonds” and collectively with the Transportation Bonds, the “Bonds”); and

WHEREAS, the Bonds were approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023;

WHEREAS, the Town will use the proceeds of the Transportation Bonds consistent with the voter approved referendum to pay the capital costs of constructing, reconstructing, enlarging, extending and improving streets and non-motorized paths, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including, without limitation, the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design, acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads and intersections, and acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers, and acquiring land, rights-of way and easements required for any of the foregoing;

WHEREAS, the Town will use the proceeds of the Parks and Recreation Bonds consistent with the voter approved referendum to pay the capital costs of acquiring and constructing parks and recreation facilities and athletic fields, including, without limitation, the expansion of the Town recreation center, renovating and expansion of existing parks and recreation facilities and athletic fields, including improvements to the Huntersville Family Fitness & Aquatics facility, developing parkland, greenways and trails, and acquiring land, rights of-way and easements for park and recreation uses, if necessary;

WHEREAS, based upon the information and evidence received in connection with such application to the Commission, it is determined and found by the Commission:

- (i) that said Bonds are necessary or expedient;
- (ii) that the proposed amount of said Bonds is adequate and not excessive for the proposed purpose thereof;
- (iii) that the debt management procedures and policies of the Town are good and reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law;
- (iv) that the increase in taxes, if any, necessary to service said Bonds will not be excessive; and
- (v) that said Bonds can be marketed at reasonable rates of interest;

- (vi) the assumptions used by the finance officer of the Town in preparing the Statement of Disclosure filed with the Town Clerk pursuant to Section 159-55.1(a) of the General Statutes of North Carolina are reasonable.

WHEREAS, the Town may issue the Bonds in one or more series as determined by the Town;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the application of the Town of Huntersville for approval of the issuance of not to exceed \$50,000,000 aggregate principal amount of the Town of Huntersville General Obligation Transportation Bonds and the issuance of not to exceed \$8,000,000 aggregate principal amount of the Town of Huntersville General Obligation Parks and Recreation Bonds is hereby approved. This constitutes the entering of the Commission's order approving the application for the Bonds under Section 159-53 of the General Statutes of North Carolina, as amended.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a unanimous vote of 7 – 0 (Absent: Harvey).

Thereupon, Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE FINANCING TEAM FOR NOT TO EXCEED \$50,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS AND NOT TO EXCEED \$8,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS”

WHEREAS, the Town of Huntersville (the “Town”) has engaged the services of Parker Poe Adams & Bernstein LLP as Bond Counsel to the Town and Davenport & Company LLC as financial advisor to the Town in connection with the issuance and sale of its General Obligation Transportation Bonds and General Obligation Parks and Recreation Bonds, each approved by the affirmative vote of a majority of those in the Town who voted thereon at a referendum on November 7, 2023, and has requested that the North Carolina Local Government Commission (the “Commission”) approves its financing team; and

WHEREAS, based upon the information and evidence received in connection with such request, the Commission is of the opinion that the request of the Town should be approved;

NOW, THEREFORE, BE IT RESOLVED by the Commission that the financing team engaged by the Town is hereby approved.

Mr. Burns seconded the motion and the foregoing resolution was adopted by a unanimous vote of 7 – 0 (Absent: Harvey).

TOWN OF NORTH TOPSAIL BEACH

Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF NORTH TOPSAIL BEACH FOR THE FINANCING OF A FIRE STATION THROUGH AN INSTALLMENT FINANCING CONTRACT PURSUANT TO G.S. §160A-20

WHEREAS, pursuant to Section 160A-20 of the General Statutes of North Carolina, as amended, the Town of North Topsail Beach, North Carolina (the “*Town*”) has determined that it is in the best interests of the Town to enter into an installment financing contract (the “*Contract*”) with JPMorgan Chase Bank, N.A. (the “*Bank*”) in order to (1) finance the demolition of the existing Fire Station No. 2 and the construction of a new fire station on the same property (the “*Project*”) and (2) pay certain costs related to the execution and delivery of the Contract;

WHEREAS, the principal amount to be advanced by the Bank to the Town under the Contract will not exceed \$5,600,000;

WHEREAS, the Town will repay the advance of the Contract in annual installments of principal and semi-annual installments of interest at an interest rate not to exceed 3.79% per annum (subject to adjustment as provided in the Contract);

WHEREAS, the final maturity date of the Contract may not extend beyond January 15, 2039;

WHEREAS, pursuant to Article 8, Chapter 159 of the General Statutes of North Carolina, the Town has made proper application to the Local Government Commission of North Carolina (the “*Commission*”) for approval of the proposed financing; and

WHEREAS, the Secretary of the Commission has determined that the unit has complied with Section 159-149 of the General Statutes of North Carolina, as amended; and

WHEREAS, the Commission, pursuant to Section 159-151 of the General Statutes of North Carolina, as amended, upon information and evidence received, finds and determines as follows:

- (1) the Contract is necessary or expedient for the Town;
- (2) the Contract, under the circumstances, is preferable to a bond issue by the Town for the same purposes;
- (3) the sums to fall due under the Contract are adequate and not excessive for its proposed purposes;
- (4) the Town’s debt management procedures and policies are good;
- (5) the increase in taxes, if any, necessary to meet the sums to fall due under the Contract will not be excessive; and
- (6) the Town is not in default in any of its debt service obligations.

NOW, THEREFORE, BE IT RESOLVED by the Commission that the application for approval of the Contract and planned financing of the Project is hereby approved under the provisions of Section 160A-20 of the General Statutes, as amended, Article 8 of Chapter 159 of the General Statutes, as amended, and relevant resolutions of the Commission.”

Mr. Burns seconded the motion and the foregoing resolution was adopted by unanimous vote of 7 – 0 (Absent: Harvey).

Secretary Marshall made a motion to approve the following resolution:

“RESOLUTION APPROVING THE FINANCING TEAM FOR THE TOWN OF NORTH TOPSAIL BEACH, NORTH CAROLINA INSTALLMENT FINANCING CONTRACT PURSUANT TO G.S. §160A-20

WHEREAS, the Town of North Topsail Beach, North Carolina (the “*Town*”) has requested that the Local Government Commission of North Carolina (the “*Commission*”) approve its selection of the following financing team members for the above-referenced installment financing contract:

Special Counsel:	- Parker Poe Adams & Bernstein LLP
Bank:	- JPMorgan Chase Bank, N.A.
Bank’s Counsel:	- Womble Bond Dickinson (US) LLP
Financial Advisor:	- DEC Associates, Inc.

WHEREAS, based on the information and evidence received by the Commission, the Commission is of the opinion that the Town’s request should be approved.

NOW, THEREFORE, BE IT RESOLVED by the Commission that the above-referenced financing team is hereby approved for the above-referenced installment financing contract.”

Mr. Burns seconded the motion and the foregoing resolution was adopted by unanimous vote of 7 – 0 (Absent: Harvey).

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TOWN OF WAYNESVILLE

Secretary Marshall made a motion to adopt the following resolution:

“RESOLUTION APPROVING THE FINANCING REQUEST OF THE TOWN OF WAYNESVILLE, NORTH CAROLINA: THIS PROJECT CONSISTS OF REHABILITATING THE TOWN’S WASTEWATER TREATMENT PLANT.

WHEREAS, the Town of Waynesville, North Carolina (the “*Town*”) has determined that the Project is necessary or expedient because the advancing decline of the 1970’s-era

wastewater treatment plant has contributed to an inability to meet effluent pollution concentration standards in the Town's discharge permit, causing the Town to receive numerous Notices of Violation and fines; and

WHEREAS, the North Carolina Local Government Commission (the Commission) previously approved a Wastewater State Revolving Loan in 2021 for the Town in the amount of \$19,045,000; and

WHEREAS, the Commission previously approved in 2022 an increase in the loan, bringing the total to \$24,545,900; and

WHEREAS, the Town received bids that exceeded the previously anticipated bid amounts and has requested an additional increase of \$4,877,100; and

WHEREAS, the Department of Environmental Quality ("DEQ") has approved the additional funding for the Town; and

WHEREAS, the Town filed an application with the Commission for approval of a revised Wastewater State Revolving Loan in the increased total amount not to exceed \$29,423,000, with the term of twenty-six (26) years at an interest rate, as established under this program for the respective loan, State or Federal, of zero percent (0%); and

WHEREAS, the Commission, upon the information and evidence it received, finds, and determines as follows:

- (1) That the proposed loan is necessary or expedient;
- (2) That the amount proposed is adequate and not excessive for the proposed purpose of the loan;
- (3) That the unit's debt management procedures and policies are good, or that reasonable assurances have been given that its debt will henceforth be managed in strict compliance with law;
- (4) That the increase in taxes, if any, necessary to service the proposed debt will not be excessive; and
- (5) That the interest rate for the proposed loan will be a reasonable rate.

NOW, THEREFORE, BE IT RESOLVED by the North Carolina Local Government Commission that the Commission hereby approves the award of the Wastewater State Revolving Loan to the Town and approves the increased loan amount and approves the loan terms."

Mr. Burns seconded the motion, and the foregoing was approved by unanimous vote of 7 – 0 (Absent: Harvey).

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TOWN OF WENDELL

Secretary Marshall made a motion to adopt the following resolution:

**RESOLUTION APPROVING THE APPLICATION OF THE TOWN OF
WENDELL, NORTH CAROLINA FOR THE ISSUANCE OF \$38,000,000
PARKS AND RECREATIONAL FACILITIES BONDS AND \$12,000,000
TRANSPORTATION BONDS**

WHEREAS, the Town of Wendell, North Carolina (the “Town”) has applied to the North Carolina Local Government Commission (the “Commission”) pursuant to the Local Government Bond Act, as amended, for approval of the issuance by the Town of (a) \$38,000,000 Parks and Recreational Facilities Bonds (the “Parks and Recreational Facilities Bonds”) for the purpose of providing funds, together with any other available funds, for improving and expanding the existing park, greenway and recreational facilities of the Town and acquiring and constructing new park, greenway and recreational facilities of the Town, inside and outside its corporate limits, including, without limitation, the acquisition of land for parks and recreational use, rights of way and equipment and (b) \$12,000,000 Transportation Bonds (the “Transportation Bonds” and, together with the Parks and Recreational Facilities Bonds, the “Bonds”) for the purpose of providing funds, together with any other available funds, for various transportation related improvements of the Town, inside and outside its corporate limits, including, without limitation, improvements to streets and sidewalks, bridges and overpasses, parking and bicycle facilities, the installation of traffic controls, markers and signals, streetscape improvements and the acquisition of any related land, rights of way and equipment; and

WHEREAS, on November 7, 2023 a bond referendum was held in the Town regarding the approval of the Bonds and a majority of the qualified voters of the Town who voted at the referendum voted in favor of the bond orders authorizing the Bonds, said orders were thereby approved; and

WHEREAS, upon such authorization, in accordance with law, of the Bonds, the Town is empowered to issue bonds and notes in anticipation of the receipt of the proceeds of the sale of the Bonds; and

WHEREAS, based upon the information and evidence received in connection with such application, the Commission finds and determines:

- (a) that the Bonds are necessary or expedient;
- (b) that the proposed amount of the Bonds is adequate and not excessive for the proposed purposes thereof;
- (c) that the Town’s debt management procedures and policies are good;
- (d) that the increase in taxes, if any, necessary to service the Bonds will not be excessive;
- (e) that the Bonds can be marketed at a reasonable interest cost to the Town; and
- (f) that the assumptions used by the Finance Director of the Town in preparing the statement of estimated interest filed with the Town Clerk pursuant to G.S. 159-55.1(a) are reasonable; and

NOW, THEREFORE, BE IT RESOLVED by the North Carolina Local Government Commission that the application of the Town for approval of the Bonds in the amounts and for the purposes set forth above is hereby approved pursuant to the Local Government Bond Act, as amended.

Mr. Burns seconded the motion and the foregoing resolution was adopted by unanimous vote of 7 – 0 (Absent: Harvey).

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MISCELLANEOUS ACTION ITEMS

TOWN OF CARY

Secretary Marshall made a motion to approve the following:

The Town of Cary and the North Chatham Volunteer Fire Department are requesting approval of an annexation payment of Wake County Parcel 0714435033, 0714534088 according to G.S. 160A-31.1, whereby the Town will make a lump sum payment of \$4,578.66 for the debt related to facilities and equipment. The annexation was completed on June 22, 2023.

Mr. Burns seconded the motion, and the foregoing was approved by unanimous vote of 7 – 0 (Absent: Harvey).

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CITY OF KINGS MOUNTAIN

Secretary Marshall made a motion to approve the following:

The City of Kings Mountain and the Bethlehem Volunteer Fire Department are requesting approval of an annexation payment of Cleveland County Parcel 11158 according to G.S. 160A-31.1, whereby the City will make two lump sum payments. The first payment of \$1,084.14 is for the debt on the land and real estate owned by the Department and the second payment of \$169.30 is for the purchase of equipment by the Department. The total combining both lump sum payments comes to \$1253.44. The annexation was completed on June 8, 2023.

Mr. Burns seconded the motion, and the foregoing was approved by unanimous vote of 7 – 0 (Absent: Harvey).

* * * * *

END OF CONSENT AGENDA

MECKLENBURG COUNTY PRESENTATION

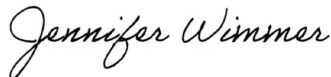
Representatives from Mecklenburg County and Charlotte-Mecklenburg Schools attended virtually to make a presentation and answer members' questions about the Capital Plans Overview, the school projects plans, and the finance plans associated with the \$2.5 billion General Obligation bonds approved by voters in November 2023. Mecklenburg County presenters included: Dena Diorio, County Manager; Michael Bryant, Deputy County Manager; and David Boyd, Chief Financial Officer. Charlotte-Mecklenburg Schools presenters included: Dr. Crystal Hill, Superintendent; Brian Schultz, Chief Operations Officer; and Dennis LaCaria, Executive Director, Facilities and Real Estate Planning.

Ms. Hoffmann made a motion to adjourn in honor and in memory of Greensboro Police Sgt. Philip Dale Nix, who was tragically killed in the line of duty on December 30, 2023. Secretary Marshall seconded the motion which passed by unanimous vote. The meeting adjourned at 3:02 p.m.

The next regularly scheduled meeting of the North Carolina Local Government Commission will be held on February 6, 2024 at 1:30 p.m.

I, Jennifer Wimmer, Deputy Secretary of the North Carolina Local Government Commission, CERTIFY that the foregoing is a true and correct account of actions taken at a meeting of the North Carolina Local Government Commission duly called and held on January 9, 2024.

WITNESS my hand at Raleigh, NC, this 9th day of January 2024.



Jennifer Wimmer, Deputy Secretary of the
Local Government Commission of North Carolina

EXHIBIT 1

Local Governments Requesting Debt Approval by LGC									
Meeting Date01/09/24									
As Reported in 2023 Fiscal Year End Audits									
Name of Unit	County	Total OPEB Liability	Actuarial Value of OPEB Assets	Net OPEB Liability	Total LEOSSA Pension Liability	Actuarial Value of LEOSSA Assets	Net LEOSSA Pension Liability	Total Net Liability for OPEB and LEOSSA	LGERS/TSERS Net Pension Liability
Beech Mountain	Watauga	N/A	N/A	N/A	363,944	0	363,944	363,944	2,564,593
Cary	Wake	150,722,686	0	150,722,686	8,994,705	0	8,994,705	159,717,391	66,725,682
Fuquay-Varina	Wake	3,574,369	0	3,574,369	1,802,625	0	1,802,625	5,376,994	14,150,958
Holly Springs	Wake	6,258,755	801,434	5,457,321	2,996,477	0	2,996,477	8,453,798	17,395,343
Huntersville	Mecklenburg	3,607,473	0	3,607,473	4,588,655	0	4,588,655	8,196,128	11,128,281
Kings Mountain	Cleveland	11,687,693	0	11,687,693	1,394,763	0	1,394,763	13,082,456	6,867,875
Liberty (1)	Randolph	N/A	N/A	N/A	299,443	0	299,443	299,443	304,265
North Topsail Beach	Onslow	N/A	N/A	N/A	260,457	0	260,457	260,457	1,864,492
Wake County Housing Authority (1)	Wake	N/A	N/A	N/A	N/A	N/A	N/A	N/A	217,771
Waynesville	Haywood	7,995,971	0	7,995,971	1,684,801	0	1,684,801	9,680,772	6,223,059
Wendell	Wake	4,620,533	0	4,620,533	998,222	0	998,222	5,618,755	2,866,974
LGERS - Local Government Employees' Retirement System		OPEB - Other Post Employment Benefits (e.g. retiree healthcare)							
TSERS - Teachers' and State Employees' Retirement System		NA - Not applicable							
(1) Financials as of 06/30/2022									

MEMORANDUM

To: Local Government Commission Members and Designees

From: Cindy Aiken, Asst. General Counsel, Dept. of State Treasurer

Date: January 3, 2024

Re: Members of NC State Boards and Commissions – Q&A about abstaining or recusals from votes

1. Am I required to vote?

No, board members of State Boards, who follow general parliamentary procedure under *Robert's Rule of Order*, and whose statutes or bylaws have not amended general parliamentary procedure, may choose to abstain from voting for any reason. Choosing to abstain from voting versus a legal obligation to recuse yourself from voting are two different actions. Remember that an abstention is optional on the member's part, but a recusal is mandatory under the relevant State Government Ethics Act statutes.

¹ It is preferable that all members vote ² unless prohibited by a conflict of interest requiring recusal, but a member could choose to abstain if he or she feels inadequately informed to cast a thoughtful vote on a matter. A motion to table or postpone a matter is another option in that situation.

2. May a member who abstains from a vote still participate in the discussion and deliberation at the meeting?

Yes, a member who chooses to abstain from a vote may still participate in the discussion and deliberation at the meeting.

3. May a board member vote to approve meeting minutes for a meeting that the member did not attend?

Yes, you may vote to approve the minutes and you are not expected to abstain. Other board members who attended the meeting can vouch for the accuracy of the minutes and it is reasonable to rely on representations of the other members who were present, as well as on the clerk or secretary, when approving minutes.

4. What are my duties related to conflicts of interest?

Duty to self-monitor for actual and potential conflicts of interest.

¹ Refer to the State Government Ethics Act (the Ethics Act), [N.C.G.S. Chap. 138A, Article 4 Ethical Standards for Covered Persons](#) for the specifics of conflicts of interest and recusal, which are explained in the required ethics training course.

² Note that the conflicts of interest statutes and recusal procedures **for city and county governing boards differ** from the statutes and procedures applicable to state boards and commissions. For cities and towns, see [N.C. Gen. Stat. 160A-75](#), and for counties, see [N.C. Gen. Stat. 153A-44](#).

EXHIBIT 2

Memorandum to LGC Members

January 3, 2024

As public servants covered under the [Ethics Act](#), Local Government Commission members are each responsible to continually self-monitor for possible conflicts. [N.C. Gen. Stat. 138A-35\(b\)](#)

Furthermore, at each meeting, *“A public servant shall make a due and diligent effort before taking any action, including voting or participating in discussions with other public servants on a board on which the public servant also serves, to determine whether the public servant has a conflict of interest.”* [N.C. Gen. Stat. 138A-35\(a\)](#)

The Ethics Act also requires the Chair of covered boards to take an active role in ensuring compliance with the Ethics Act; to remind members of their individual responsibilities to monitor personal, financial, and professional affairs and to avoid conflicts; and to inquire about conflicts at each meeting. [See N.C. Gen. Stat. 138A-15](#)

Duty to recuse.

The recusal provision is found in [N.C. Gen. Stat. 138A-36](#). Based on the language in subsection (c) of this statute, it is the duty of each member to *“take appropriate steps, under the particular circumstances and considering the type of proceeding involved, to remove himself or herself to the extent necessary. . .”* (Emphasis added). See also [N.C. Gen. Stat. 138A-31](#).

5. May the members inquire about a fellow board member’s possible conflict of interest?

There is no prohibition on a member asking a fellow member if he or she has a conflict of interest that would require a recusal. It is certainly in the spirit of the Ethics Act for members to help each other be alert to conflicts of interest.³ And as noted above, the Chair has a statutory obligation to assist the members in their compliance with the Ethics Act.

6. When am I required to recuse myself from a vote?

A member *must* recuse himself or herself when the member has a conflict of interest as defined in the Ethics Act, N.C. General Statutes [Chapter 138A](#), Article 4. The member with a conflict of interest may neither participate in the discussion nor vote. In addition, the member should avoid participating in verbal or written discussions about the matter with staff, fellow board members, interested parties, and members of the media or public.

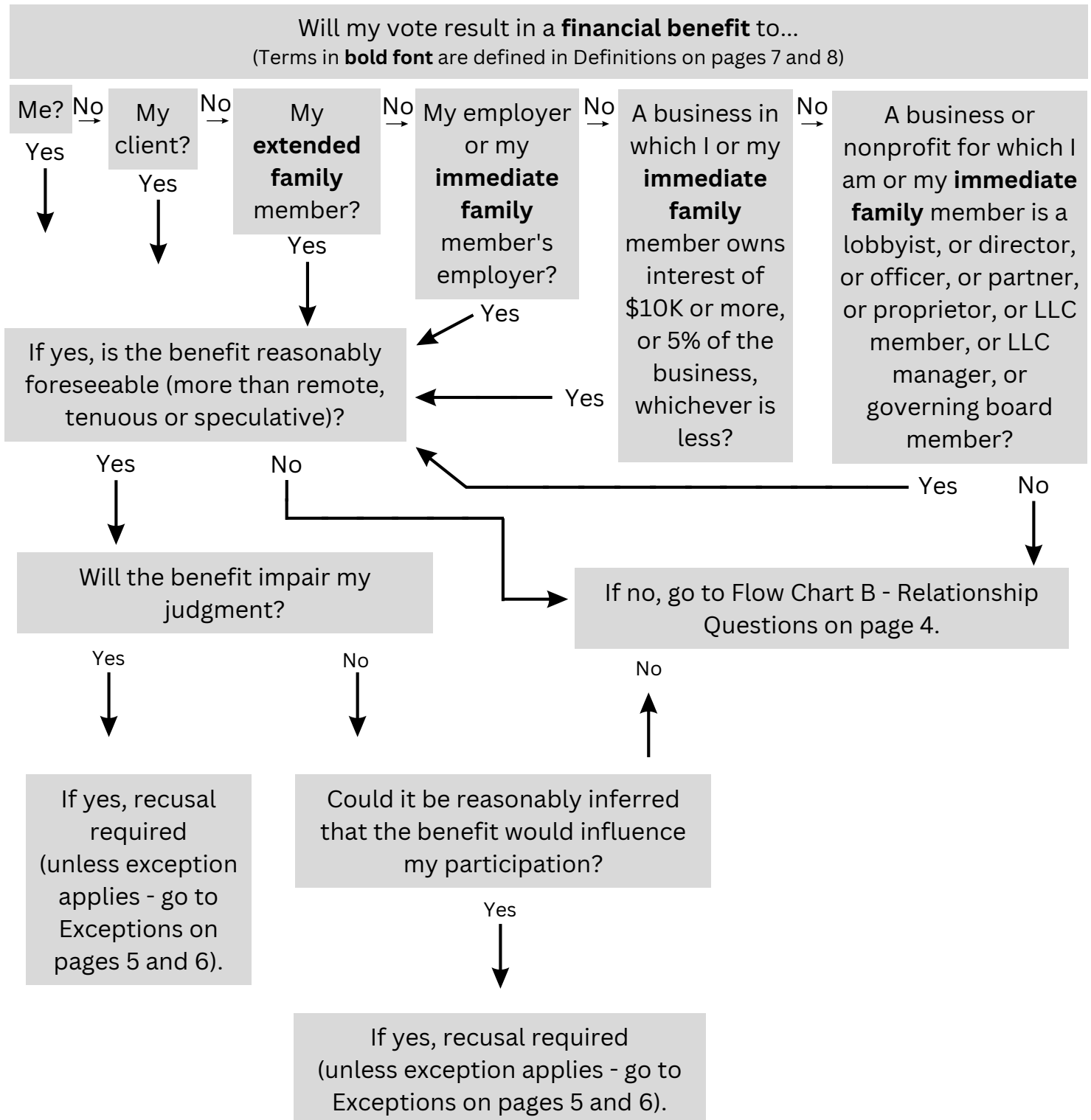
7. How do I know if I have a conflict of interest requiring recusal?

Please see **Flow Charts A and B, the Exceptions, and the Definitions** on the following pages. It is helpful to review the [Recusal Guidelines for Public Servants](#) found at the NC State Ethics Commission [website](#) for assistance with identifying conflicts.

³ See N.C. Gen. Stat. 138A-2 Purpose. The purpose of this Chapter is to ensure that elected and appointed State agency officials exercise their authority honestly and fairly, free from impropriety, threats, favoritism, and undue influence. To this end, it is the intent of the General Assembly in this Chapter to ensure that standards of ethical conduct and standards regarding conflicts of interest are clearly established for elected and appointed State agency officials, that the State continually educates these officials on matters of ethical conduct and conflicts of interest, that potential and actual conflicts of interests are identified and resolved, and that violations of standards of ethical conduct and conflicts of interest are investigated and properly addressed.

DO I HAVE A CONFLICT OF INTEREST?

FLOW CHART A

FINANCIAL BENEFIT QUESTIONS
(G.S. 138A-31 and 138A-36(a))

DO I HAVE A CONFLICT OF INTEREST?

FLOW CHART B

**RELATIONSHIP QUESTIONS
(G.S. 138A-36(c))**

Do I have a family, or financial, or personal* relationship with a participant**?

No



If no, you may participate in discussion and vote.

Yes



Might my impartiality be reasonably questioned due to the relationship?

No



I'm not sure



I'm not sure



Go to Exception (8) on page 6.

Yes



If yes, recusal required (unless exception applies - go to Exceptions on pages 5 and 6).

*Personal relationship includes a position in leadership or policy making in a business, organization, or group that is a participant

**Participant includes:

- a) an owner, shareholder, partner, member or manager of a limited liability company, employee, agent, officer, or director of a business, organization, or group involved in the proceeding, or
- b) an organization or group that has petitioned for rule making or
- c) an organization or group that has some specific, unique, and substantial interest in the proceeding.

EXCEPTIONS

Even if I have a conflict of interest, does an exception apply, allowing me to participate and vote?

Exceptions (1) through (7) are listed in N.C. Gen. Stat. 138A-38:

(1) Am I a member of a “general class”? The only interest or reasonably foreseeable benefit or detriment that accrues to the covered person, the covered person's extended family, business with which the covered person is associated, or nonprofit corporation or organization with which the covered person is associated as a member of a profession, occupation, or general class is no greater than that which could reasonably be foreseen to accrue to all members of that profession, occupation, or general class.

(2) Does my vote affect my compensation? When an official or legislative action affects or would affect the covered person's compensation and allowances as a covered person.

(3) Did I receive a prior written ok from the State Ethics Commission? Before the covered person participated in the official or legislative action, the covered person requested and received from the [State Ethics] Commission or Committee a written advisory opinion that authorized the participation. In authorizing the participation under this subdivision, the [State Ethics] Commission or Committee shall consider the need for the legislator's particular contribution, such as special knowledge of the subject matter, to the effective functioning of the General Assembly.

(4) Did I receive a prior written ok from my board after my full disclosure? Before participating in an official action, a public servant made full written disclosure to the public servant's employing entity which then made a written determination that the interest or benefit would neither impair the public servant's independence of judgment nor influence the public servant's participation in the official action. The employing entity shall file a copy of that written determination with the [State Ethics] Commission.

(5) Is this merely a ministerial action? When action is ministerial only and does not require the exercise of discretion.

(6) May I be counted for quorum purposes and not vote on the matter? When a public or legislative body records in its minutes that it cannot obtain a quorum in order to take the official or legislative action because the covered person is disqualified from acting under G.S. 138A-36, G.S. 138A-37, or this section, the covered person may be counted for purposes of a quorum, but shall otherwise abstain from taking any further action.

(7) Am I the only one who has authority to act in this matter? When a public servant notifies the [State Ethics] Commission in writing that the public servant, or someone whom the public servant appoints to act in the public servant's stead, or both, are the only individuals having legal authority to take an official action, and the public servant discloses in writing the circumstances and nature of the conflict of interest.

EXCEPTIONS CONTINUED

Even if I have a conflict of interest, does an exception apply, allowing me to participate and vote?

Exception (8) is found in N.C. Gen. Stat. 138A-36(d):

(8) Am I uncertain if the relationship identified in Flow Chart B justifies my recusal?

If a public servant is uncertain about whether the relationship described in subsection (c) of this section [Flow Chart B] justifies removing the public servant from the proceeding under subsection (c) of this section, the public servant shall disclose the relationship to the individual presiding over the proceeding and seek appropriate guidance. The presiding officer, in consultation with legal counsel if necessary, shall then determine the extent to which the public servant will be permitted to participate. If the affected public servant is the individual presiding, then the vice-chair or any other substitute presiding officer shall make the determination. A good-faith determination under this subsection of the allowable degree of participation by a public servant is presumptively valid and only subject to review under G.S. 138A-12 upon a clear and convincing showing of mistake, fraud, abuse of discretion, or willful disregard of this Chapter.

*** SPECIAL NOTE***

No exception allows participation in an official action prohibited by G.S. 14-234 – the general prohibition on public officers or employees benefiting from public contracts.

DEFINITIONS (See N.C. Gen. Stat. 138A-3)

Business with which associated:

A business in which the covered person or filing person or any member of that covered person's or filing person's immediate family does any of the following:

- a. Is an employee.
- b. Holds a position as a director, officer, partner, proprietor, or member or manager of a limited liability company, irrespective of the amount of compensation received or the amount of the interest owned.
- c. Owns a legal, equitable, or beneficial interest of ten thousand dollars (\$10,000) or more in the business or five percent (5%) of the business, whichever is less, other than as a trustee on a deed of trust.
- d. Is a lobbyist registered under Chapter 120C of the General Statutes.

For purposes of this definition, the term "business" shall not include a widely held investment fund, including a mutual fund, regulated investment company, or pension or deferred compensation plan, if all of the following apply:

1. The covered person, filing person, or a member of the covered person's or filing person's immediate family neither exercises nor has the ability to exercise control over the financial interests held by the fund.
2. The fund is publicly traded, or the fund's assets are widely diversified.

Extended Family: Spouse, lineal descendant, lineal ascendant, sibling, spouse's lineal descendant, spouse's lineal ascendant, spouse's sibling, and the spouse of any of these individuals.

Financial Benefit: A direct pecuniary gain or loss to the legislator, the public servant, or a person with which the legislator or public servant is associated, or a direct pecuniary loss to a business competitor of the legislator, the public servant, or a person with which the legislator or public servant is associated.

Immediate Family: An unemancipated child of the covered person residing in the household and the covered person's spouse, if not legally separated. A member of a covered person's extended family shall also be considered a member of the immediate family if actually residing in the covered person's household.

Nonprofit corporation or organization with which associated: Any not for profit corporation, organization, or association, incorporated or otherwise, that is organized or operating in the State primarily for religious, charitable, scientific, literary, public health and safety, or educational purposes and of which the covered person, filing person, or any member of the covered person's or filing person's immediate family is a director, officer, governing board member, employee, lobbyist registered under Chapter 120C of the General Statutes, or independent contractor. "Nonprofit corporation or organization with which associated" shall not include any board, entity, or other organization created by this State or by any political subdivision of this State.

DEFINITIONS CONTINUED (See N.C. Gen. Stat. 138A-3)

Person with which the public servant is associated:

Any of the following:

- a. A member of the public servant's extended family.
- b. A client of the public servant.
- c. A business with which the public servant or a member of the public servant's immediate family is associated.
- d. A nonprofit corporation or association with which the public servant or a member of the public servant's immediate family is associated.
- e. The State, a political subdivision of the State, a board, or any other entity or organization created by the State or a political subdivision of the State that employs the public servant or a member of the public servant's immediate family.

For additional statutes, see the following:

State Ethics Act Article 1: General Provisions (and purpose and definitions):

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_138A/Article_1.pdf

State Ethics Act Article 4: Ethical Standards for Covered Persons (includes the conflicts exceptions and provisions for obtaining advisory opinions)

https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_138A/Article_4.pdf