



HOUSE BILL 1064: Various Local Provisions III.

2023-2024 General Assembly

Committee:		Date:	June 26, 2024
Introduced by:	Rep. Miller	Prepared by:	Jessica Sammons, Ike McRee, William Brewer, Hillary Woodard, Erika Churchill Staff Attorneys
Analysis of:	Third Edition		

OVERVIEW: *House Bill 1064 would make various changes to multiple local acts.*

CURRENT LAW and BILL ANALYSIS:

Town of Bermuda Run:

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.

Section 1 of the bill 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 town 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.

Statesville Regional Airport Leases:

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.

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- 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 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.

Section 2 of the bill, effective when it becomes law and applying to leases entered into, renewed, or extended on or after that date, 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.

Southern Pines Ordinance Voting Requirements:

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.

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.

Section 3 of the bill 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 Initiatives:

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 the Town of Wrightsville Beach, upon receipt of a verified petition, the 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.

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Section 4 of the bill, effective when it becomes law and applying to petitions submitted on or after that date, would 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.

Jackson County Board of Education:

The Jackson County Board of Education consists of five members, each representing a single-member residency district. A member must reside in the district the member represents, 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.

Section 5 of the bill 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.

Jones County ABC Profit Distributions:

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.

Section 6 of the bill 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.

Polk County Board of Education:

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. A member must reside in the district the member represents, 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.

Section 7 of the bill 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.

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Foothills Regional Airport Authority Leases:

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.

Section 8 of the bill, effective when it becomes law and applying to leases entered into, renewed, or extended on or after that date, would amend the powers and duties of the Foothills Regional Airport Authority to permit that body to enter into leases for 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.

Forsyth County Municipal Elections:

The following chart summarizes the current town officers, terms of office, and method of election in the municipalities of Bethania, Clemmons, Kernersville, Lewisville, Rural Hall, Tobaccoville, and Walkertown.

Unit of Government	Officers	Term of Offices	Election of Current Members	Method of Election
Town of Bethania	Mayor Board of Commissioners (5 members) Commissioners elect one of its members to serve as mayor	<u>Mayor</u> : four years <u>Commissioners</u> : four years, staggered	<u>Mayor</u> : serves at pleasure of council <u>Commissioners</u> : three elected in 2023 & two elected in 2021	Nonpartisan plurality

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Village of Clemmons	Mayor Village Council (5 members)	<u>Mayor</u> : two years <u>Council members</u> : four or two years depending on number of votes candidate received	<u>Mayor</u> : elected in 2023 <u>Council members</u> : three elected in 2023; two for a four-year term and one for a two-year term	Nonpartisan plurality
Town of Kernersville	Mayor Board of Aldermen (5 members)	<u>Mayor</u> : two years <u>Aldermen</u> : two years	<u>Mayor</u> : elected in 2023 <u>Aldermen</u> : elected in 2023	Nonpartisan plurality
Town of Lewisville	Mayor Town Council (6 members)	<u>Mayor</u> : two years <u>Town Council</u> : two years	<u>Mayor</u> : elected in 2023 <u>Town Council</u> : elected in 2023	Nonpartisan plurality
Town of Rural Hall	Mayor Town Council (4 members)	<u>Mayor</u> : four years <u>Town Council</u> : four years, staggered	<u>Mayor</u> : elected in 2023 <u>Town Council</u> : two elected in 2023 & two elected in 2021	Nonpartisan plurality
Village of Tobaccoville	Mayor Town Council (4 members)	<u>Mayor</u> : two years <u>Town Council</u> : four years, staggered	<u>Mayor</u> : elected in 2023 <u>Council</u> : two elected in 2023 & two elected in 2021	Nonpartisan plurality
Town of Walkertown	Mayor Town Council (4 members)	<u>Mayor</u> : four years <u>Town Council</u> : four years, staggered	<u>Mayor</u> : elected in 2023 <u>Town Council</u> : two elected in 2023 & two elected in 2021	Nonpartisan plurality

Section 9 of the bill would provide that beginning in 2025, municipal elections for the Town of Bethania, the Village of Clemmons, the Town of Kernersville, the Town of Lewisville, the Town of Rural Hall, the Village of Tobaccoville, and the Town of Walkertown would be conducted on a partisan basis.

Winston-Salem/Forsyth County Board of Education:

The Winston-Salem/Forsyth County Board of Education (Board) consists of nine members, elected to four-year terms of office on a partisan basis in even-numbered years from a combination of electoral districts and at-large seats. Two members are elected from District 1, four members are elected from District 2, and three members are elected from the county at-large. For the district seats, only qualified voters of the district are eligible to be candidates and only qualified voters of the district are eligible to vote. For the at-large seats, any qualified voter of the county is eligible to be a candidate and all qualified voters of the county are eligible to vote. All members of the Board are elected in the same year at the time of the general election for other county officers. Vacancies are filled by the remaining members of the Board, with the appointee serving for the unexpired term of the vacating member.

Section 10 of the bill, effective when it becomes law and applying to vacancies occurring on or after that date, would provide that vacancies occurring on the Board would be filled in accordance with G.S. 115C-37.1, which requires the remaining members of the Board to consult with the county executive

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committee of the relevant political party before filling a vacancy and to appoint that executive committee's nominee, if the recommendation is made within 30 days after the seat becomes vacant.

Mecklenburg Rail Line Acquisitions:

Under G.S. 153A-158 and G.S. 160A-240.1, counties and cities may acquire real and personal property for their use. G.S. 153A-15 requires most, but not all, units of local government seeking to acquire property in another county by the exercise of eminent domain to obtain the consent of the other county's board of commissioners. Along with certain other counties, G.S. 153A-15 applies to Mecklenburg County.

Section 10.5 would do the following:

- Prohibit the acquisition of an existing railway line, including right-of-way, track, and related railroad facilities located outside of Mecklenburg County by Mecklenburg County, or other unit of local government located wholly or primarily in Mecklenburg County, without the approval of each county and municipality containing a portion of the railway line being acquired.
- Clarify that the approval of the railway line acquisition means a majority vote of each board of commissioners of a county and each municipality governing board outside of Mecklenburg County that contains a portion of the railway line being acquired.

EFFECTIVE DATE: Except as provided above, this act would be effective when it becomes law.