Fiscal Impact Analysis of Proposed Rules

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Name of Commission: Local Government Commission

Agency: Department of State Treasurer

20 NCAC 03 .0409

Exemption from Disbursement Certificate Requirement for Electronic Transactions
20 NCAC 03 .0410

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Rulemaking Authority: G.S. 159-3(f); 159-28(f)(3); 115C-441(f)(3) (see Appendix A)

Nature of Impact:
State Government: No
Local Government: Yes
Substantial Economic Impact: No

Summary

The Local Government Commission (“the Commission”), which operates as a division of the Department of State Treasurer through the State and Local Government Finance Division, is proposing to adopt rules that would exempt local governmental units’ electronic transactions from the preaudit and disbursement certificate requirements of G.S. 159-28 and 115C-441 if the local government units follow the procedures outlined in the proposed rules (see Appendix B).

Impact on Local Government Analysis
A. Current Administrative Burden

As a part of their financial recordkeeping requirements, local government, public authority, and school units (“local units”) must preaudit both the obligation (i.e. incurring the expenditure) and the disbursement (or payment) of the obligation. Prior to October 1, 2015, local units were required under G.S. 159-28(a1) and G.S. 115C-441(a1) to physically affix the following certificate to all expenditures (including electronic transactions made via credit cards, procurement cards “p-cards”, or fuel cards) that were accounted for in a budget or project ordinance after ensuring that (i) the expenditure was properly appropriated, (ii) that sufficient funds remained in the appropriation to pay the expenditure, and (iii) that the obligation for the expenditure was reduced to writing:

“This instrument has been preaudited in the manner required by the Local Government (or “School” for school units) Budget and Fiscal Control Act.”

Similarly, prior to disbursing funds for the expenditure, and after ensuring that (i) the amount claimed (expenditure) was payable, (ii) there was an authorized appropriation for the expenditure, and (iii) there was sufficient money to cover the payment, the local unit was required under G.S. 159-28(d1) and G.S. 115C-441(d1) to physically affix the following certificate on all disbursements, including payments made by electronic means:

“This disbursement has been approved as required by the Local Government (or “School” for school units) Budget and Fiscal Control Act.”

As more business transactions move to electronic payment options, the preaudit certificate requirements have proved to be very inefficient for governmental units. To remedy this problem, in 2015 the General Assembly modified G.S. 159-28 and G.S. 115C-441 in Session Law 2015-246 by creating exemptions from the preaudit certificates for electronic payments and electronic funds transfers. G.S. 159-28(f)(3) and 115C-441(f)(3).

B. Benefits of Rule Changes

To implement the 2015 statutory modifications of the preaudit certificate requirements, the Commission’s proposed rules set out the steps a local unit must take to be exempt from placing a preaudit certificate on each electronic obligation or transaction. Compliance with the requirements of the proposed rules will exempt a local unit from the preaudit and disbursement certificates requirement for electronic transactions. It is important to note that the local unit will still have to go through the preaudit process – this change relieves a unit from the requirement of physically affixing the preaudit certificate to a document.

The elimination of the preaudit certificate on electronic transaction records will result in better efficiency for local units, providing both time savings and reduced complexity in their recordkeeping obligations. It would be impractical, and would create an undue burden on local government and Commission staff, to survey all 1,300 local government units to calculate the total time savings realized for rules that are not adding to the costs of government business. However, the approximate time savings per month for an average sized county can be estimated. One county has reported making approximately 1,200 electronic transactions per month. If each transaction requires 30 seconds to one minute of time to create and attach a preaudit certificate, the county saves 10 to 20 hours per month, or 120 to 240 hours per year of employee time that can be spent on other important tasks. Total time savings across the state will of course vary with the size of the unit, with many small units making fewer electronic transactions, and the largest units making many more such transactions.
Electronic transactions provide local units more accurate records and allow for a more efficient business process. In addition to streamlining the preaudit and auditing processes, the adoption of the proposed rules will allow local units to modernize their internal obligations and disbursement processes. It is not anticipated that units will require additional staff as a result of the rules, rather the rules reduce staff time by eliminating an unnecessary administrative step.

C. Costs of Rule Changes

To take advantage of these rule changes, local units will need to provide written policies, procedures and training for the use of electronic transactions. Additional time for these requirements would be minimal. Any new policies and procedures need only reiterate the current policies and procedures for incurring and paying for obligations (the safeguards and requirements are the same whether electronic transactions are used or not). The rules retain the safeguards already in place of (1) requiring every expenditure to be preaudited before authorizing and (2) requiring internal controls to verify funds are available prior to both incurring and paying debts. New procedures would just eliminate the requirement of preaudit certificates for electronic transactions. Training would not require extensive meetings; staff could be made aware by a written memo that a process step is being eliminated and no process steps are being added.

Once the proposed rules are in place, local units will no longer be precluded from using electronic transactions, nor will they be relegated to the workarounds as outlined in the sections entitled “Current Preaudit Requirement” on the attached Appendix C, Examples of Preaudit Requirements. The proposed rules will not change the Commission’s oversight activities. They neither add to nor eliminate any of the Commission’s oversight responsibilities.
Appendix A: Rulemaking Authority

§ 159-3. Local Government Commission established.

(f) The Commission may adopt rules and regulations to carry out its powers and duties.


(f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:

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

2. Payroll expenditures, including all benefits for employees of the local government.


§ 115C-441. Budgetary accounting for appropriations.

(f) The certifications required by subsections (a1) and (d1) of this section shall not apply to any of the following:

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

2. Payroll expenditures, including all benefits for employees of the local government.

20 NCAC 03 .0409 is proposed for adoption as follows:

20 NCAC 03 .0409  EXEMPTION FROM PREAUDIT CERTIFICATE REQUIREMENT FOR ELECTRONIC TRANSACTIONS

(a) To qualify for an exemption from the preaudit certificate requirement in G.S. 159-28(a) or G.S. 115C-441(a) for electronic transactions, a local government, public authority, or local school administrative unit, herein referred to as “the unit,” shall do the following:

(1) The unit’s governing board shall adopt a resolution authorizing the unit to engage in electronic transactions as defined by G.S. 159-28 or G.S. 115C-441;

(2) The unit shall have an “encumbrance system”. As used in this rule, an “encumbrance system” means a system of written policies and procedures for tracking obligations. The system may be manual, maintained as part of the unit’s accounting system, or a combination of the two;

(3) The unit’s governing board, or finance officer if authorized by the unit’s governing board, shall adopt a written policy outlining procedures for preauditing obligations that will be incurred by electronic transactions. The written policy and any procedures shall provide internal controls that shall ensure the following:

(A) there is a budget, project, or grant ordinance appropriation authorizing the expenditure;

(B) that sufficient budgeted monies remain within the appropriation to cover the amount that is expected to be paid out during the current fiscal year if accounted for in the budget ordinance, or to cover the entire amount if accounted for in a project or grant ordinance; and

(C) that the amount of the transaction is recorded in the unit’s encumbrance system;

(4) The unit shall provide training to all personnel about the written policy and the procedures that shall be followed before undertaking an electronic transaction; and

(5) The unit shall provide its governing board, each quarter, a budget to actual statement that includes the following:

(A) budgeted accounts;

(B) actual payments made;

(C) amounts encumbered, including electronic obligations; and

(D) the amount of the budget that is unobligated for all major funds.

(b) Local government, public authority, or local school administrative units that comply with Subparagraphs (a)(1) through (5) of this Rule shall not be required to affix the preaudit language required in G.S. 159-28 (a1) or G.S. 115C-441 (a1) to electronic transactions transacted as follows:

(1) credit cards;
procurement cards; or

fuel cards.

Authority G.S. 159-28(f)(3); 115C-441(f)(3)

20 NCAC 03 .0410 is proposed for adoption as follows:

20 NCAC 03 .0410 EXEMPTION FROM DISBURSEMENT CERTIFICATE REQUIREMENT FOR ELECTRONIC TRANSACTIONS

(a) To qualify for an exemption from the disbursement certificate requirement in G.S. 159-28(d1) and G.S. 115C-441(d1) for electronic transactions, a local government, public authority, or local school administrative unit, herein referred to as “the unit,” shall do the following:

(1) The unit’s governing board shall adopt a resolution authorizing the unit to engage in electronic transactions as defined by G.S. 159-28 or G.S. 115C-441; and

(2) The unit’s governing board, or finance officer if authorized by the governing board, shall adopt a written policy outlining procedures for disbursing public funds by electronic transaction. The written policy and any procedures shall provide internal controls that shall ensure the following:

(A) that the amount claimed is payable;

(B) that there is a budget, project, or grant ordinance appropriation authorizing the expenditure;

(C) that monies remain within the appropriation to cover the amount that is due during the current fiscal year if accounted for in the budget ordinance, or to cover the entire amount if accounted for in a project or grant ordinance; and

(D) that the unit has sufficient cash to cover the payment.

(b) Local government, public authority, or local school administrative units that comply with Subparagraphs (a)(1) and (2) of this Rule shall not be required to affix the disbursement certificate required in G.S. 159-28 (d1) or G.S. 115C-441 (d1) to any electronic transactions.

Authority G.S. 159-28(f)(3); 115C-441(f)(3)
Appendix C: Examples of the Preaudit Requirements

**Example 1:**
An employee of the unit pulls up to the gas pumps to put gas in the unit’s car using the unit’s fuel card.

*Current Preaudit Requirement:* The employee would have to check the budget, encumber the budget and certificate the order of the gas with the Preaudit language by creating a document to certificate.

*After Preaudit Rule Adoption:* The finance officer can encumber a blanket amount for the fuel card and the employee can order (pump) the gas without having to certificate the order for gas.

**Example 2:**
Unit places an order with Vendor for goods using a credit card. When the credit card bill arrives, Unit pays for the charges via ACH electronic funds transfer.

*Current Preaudit Requirement:* Assuming that the Unit frequently uses Vendor and pays using the same credit card, the Unit can issue a blanket PO to Vendor, authorizing a maximum amount of credit card charges. At the time of paying the credit card bill electronically, the Unit either then creates a document to which the preaudit certificate is affixed, eliminating some of the efficiencies gained by processing the transaction electronically, or is technically in violation of the requirements if it chooses to not produce a physical preaudit certificate for the transaction.

*After Preaudit Rule Adoption:* When Unit orders the goods and pays via credit card, Unit will not be required to affix a preaudit certificate. Unit will not be required to affix a disbursement certificate for the ACH disbursement.