

FINANCIAL ADMINISTRATION OF SOIL AND WATER CONSERVATION DISTRICTS

Kara A. Millonzi, UNC-CH School of Government

THE FOLLOWING PROVIDES ANSWERS TO FREQUENTLY ASKED QUESTIONS RELATING TO THE FINANCIAL ADMINISTRATION OF SOIL AND WATER CONSERVATION DISTRICTS IN NORTH CAROLINA.

1. WHAT IS THE LOCAL GOVERNMENT BUDGET AND FISCAL CONTROL ACT (LGBFCA)?

- The LGBFCA is comprised of a series of statutes that govern the budgeting processes and financial administration of, and distribution of public funds by, local governments and public authorities in North Carolina. The statutory provisions are in Subchapter III of Chapter 159 of the North Carolina General Statutes (G.S. 159-7 through -38).

2. DOES THE LGBFCA APPLY TO SOIL AND WATER CONSERVATION DISTRICTS?

- Yes. Soil and Water Conservation Districts (Districts) generally either are part of a unit of local government—comprising a county department or operating within a county department—or operate independently as public authorities—defined as municipal corporations (other than a unit of local government) that are not subject to the State Budget Act. The LGBFCA applies to a District that is part of a unit of local government and a District that operates as a public authority.

3. WHAT ARE THE MAJOR PROVISIONS OF THE LGBFCA?

- The LGBFCA governs the following aspects of financial management:
 - Budgeting
 - Cash Management and Investments
 - Expenditure Control / Disbursement of Public Funds
 - Government Accounting / Financial Reporting
 - Annual Audit
 - Financial Administration

4. WHAT ARE THE ANNUAL BUDGETING REQUIREMENTS OF THE LGBFCA?

- Districts must adopt a balanced budget ordinance by July 1 of each fiscal year. A budget is considered balanced when the sum of estimated net revenues and appropriated fund balance is equal to appropriations. Estimated net revenues includes funds from all sources that the District expects to receive during the fiscal year—including appropriations from the state or county, grant monies, donations, and monies generated through fund-raising activities. Fund balance is the amount of cash reserves available to the District. Appropriations comprise the District’s planned expenditures for the fiscal year. (G.S. 159-8)
 - Appropriations must be made by department, function, or project. They do not have to include line-item detail. Revenues must be shown by major source.
- G.S. 159-13 details additional requirements and limitations relating to various components of a District’s annual budget.

5. MUST ALL MONIES RECEIVED BY A SOIL AND WATER CONSERVATION DISTRICT BE INCLUDED IN THE ANNUAL BUDGET?

- No. However, all monies received by a District must be included in one of the following:
 - Budget ordinance
 - Project ordinance
 - Trust and agency fund
 - Intergovernmental service fund

6. WHO PREPARES THE BUDGET FOR A SOIL AND WATER CONSERVATION DISTRICT?

- The answer depends, in part, on whether the District is part of a county government or operates independently as a public authority.

DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT

- If the District’s budget is included in the county budget, the District must file its budget requests with the county’s budget officer on or before April 30 (or as directed by the county’s budgeting process). The county’s budget officer prepares

a draft county budget and submits it to the county's governing board. The county's governing board approves the budget, usually with at least some modifications. Because the District's budget is included in the county's budget, the county's governing board has final authority over the District's budget.

DISTRICT IS AN INDEPENDENT PUBLIC AUTHORITY

- If the District's budget is not included in the county budget, the District must adopt its own budget ordinance. The District must appoint a budget officer (G.S. 159-9) to prepare the budget and present it to the District's governing board for approval according to the schedule set forth in Question 8 below. The duties of a budget officer may be imposed on any member of the District's governing board or any other officer or employee. The District's governing board has final authority over the District's budget. (To the extent that the District relies on the county for the bulk of its revenue, however, the District likely will have to work closely with the county's budget officer and county's governing board during the budgeting process.)

7. WHO ADOPTS THE ANNUAL BUDGET FOR A SOIL AND WATER CONSERVATION DISTRICT?

- The answer depends, in part, on whether the District is part of a county government or operates independently as a public authority.

DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT

- If the District comprises a county department or is part of a county department, the District's budget is included in the county's annual budget ordinance and adopted by the board of county commissioners. The county's governing board has final authority over the District's budget.

DISTRICT IS AN INDEPENDENT PUBLIC AUTHORITY

- If the District's budget is not included in the county budget, the District must adopt its own budget ordinance. The District's governing board has final authority over the District's budget. (To the extent that the District relies on the county for the bulk of its revenue, however, the District likely will have to work closely with the county's budget officer and county's governing board during the budgeting process.)

8. WHAT IS THE ANNUAL BUDGETING PROCESS FOR A SOIL AND WATER CONSERVATION DISTRICT?

- The following details the procedural requirements and a rough timeline for the adoption of an annual budget ordinance. If the District is part of another unit of local government, it only need comply with the first requirement listed below. (Although it should monitor the budget process closely to protect the District's interests.) If the District operates as an independent public authority, it must comply with all the requirements listed below.
 - Before April 30, departments must submit their budget requests and revenue estimates to the budget officer in the form set by the budget officer. (G.S. 159-10)
 - By June 1 the budget officer must submit the budget and budget message to the governing board, preferably at a formal meeting. (G.S. 159-11)
 - The budget officer must file a copy with the clerk to the board on the day the budget is submitted to the board, to be open for public inspection. The clerk must make copies available to all news media in the county and publish a statement of the budget's availability with notice of the place and time of a public hearing to be held on the budget. (G.S. 159-12(a))
 - The governing board must hold a public hearing on the budget. (G.S. 159-12(b))
 - Not earlier than ten days after the budget is submitted by the budget officer and not later than July 1, the governing board must adopt the budget ordinance. (G.S. 159-13(a))

9. WHAT IS A PROJECT ORDINANCE?

- A District, or the county which a District is a part of, may adopt a project ordinance to account for the construction or acquisition of capital assets or for grant-financed projects. (G.S. 159-13.2)
- A project ordinance may be adopted at anytime and need not be re-adopted each fiscal year. It must be balanced over the life of the project. A project ordinance is balanced when revenues estimated to be available for the project equal appropriations for the project. A project ordinance may be amended as needed during a project's life, so long as it remains in balance.

- Each project ordinance must be entered into the minutes of the governing board. Within five days after its adoption, copies of the ordinance must be filed with the finance officer, the budget officer, and the clerk to the governing board.

10. WHAT IS A TRUST AND AGENCY FUND?

- A trust and agency fund is a fund established to account for moneys held by a local government or public authority as an agent or trustee or to account for a retirement, pension, or similar employee benefit system. (G.S. 159-13(a))

11. WHAT IS AN INTERGOVERNMENTAL (INTERNAL) SERVICE FUND?

- An intergovernmental service fund is a fund established to account for revenue received by one department for services performed for another department within the local government or public authority. (G.S. 159-13.1)

12. MAY A SOIL AND WATER CONSERVATION DISTRICT SPEND ANY FUNDS RECEIVED DURING THE FISCAL YEAR (FOR EXAMPLE, FUNDRAISING MONIES, DONATIONS, OR GRANT FUNDS THAT ARE RECEIVED MID-YEAR) WITHOUT AMENDING ITS BUDGET ORDINANCE OR A PROJECT ORDINANCE TO ACCOUNT FOR THE FUNDS?

- No. A local government or public authority may not expend any funds, regardless of the source of the funds, unless the funds are accounted for in a budget ordinance or project ordinance. (There is a limited exception to this requirement for funds held in a trust or agency fund or accounted for in an intergovernmental (internal) service fund—see Questions 10 and 11 above.)
- In order to expend any moneys received during the fiscal year (outside the budgeting process) the District’s governing board, or the governing board of the local government of which the district is a part, must amend its annual budget ordinance or a project ordinance to account for the funds.
- *EXAMPLE: Assume that the District engages in a fundraising activity and raises \$3,000 in November. The District did not plan on holding the fundraising activity when it submitted its budget for approval, thus, the \$3,000 is not reflected in the annual budget’s estimated revenues. If the District is a part of a county, the county’s governing board must amend its budget ordinance or a project ordinance to account for the \$3,000 in revenues and authorize the expenditure of these funds—according to department, function, or project. If the District operates independently as a public authority, the*

District's board of supervisors must amend its budget ordinance or a project ordinance to account for the \$3,000 and authorize its expenditure.

13. MAY A BUDGET ORDINANCE OR PROJECT ORDINANCE BE AMENDED ONCE IT HAS BEEN ADOPTED?

- Yes. A budget ordinance may be amended at any time by the governing board that adopted the budget. The budget ordinance, as amended, must continue to satisfy the balanced budget and other requirements set forth in G.S. 159-8 and G.S. 159-13. (G.S. 159-15)
 - The governing board that adopts the budget ordinance may authorize the budget officer to transfer moneys from one appropriation to another within the same fund subject to the limitations and procedures that it prescribes. Any transfers must be reported to the governing board that adopted the budget ordinance at its next regular meeting and entered into the minutes.
- A project ordinance may be amended at any time by the governing board that adopted the budget. It must be amended in the same manner in which it was adopted. (G.S. 159-13.2)

14. MUST A BUDGET ORDINANCE OR PROJECT ORDINANCE BE AMENDED TO REFLECT ANY CHANGES IN EXPENDITURES?

- Generally yes. A District may not incur an obligation (encumber funds or disburse funds) unless a budget ordinance or project ordinance includes an appropriation authorizing the obligation and an unencumbered balance remains in the appropriation sufficient to pay the amount that will come due in the current fiscal year. Thus generally before a District may expend funds that were not previously authorized by a budget ordinance or project ordinance the governing board that adopted the budget or project ordinance must amend the ordinance to authorize the appropriation. (G.S. 159-28(a))
 - The governing board that adopts a budget ordinance, however, may authorize the budget officer to transfer moneys from one appropriation to another within the same fund subject to whatever limitations and procedures it may prescribe. Transfers must be reported to the governing board that adopted the budget ordinance at its next regular meeting and must be entered into the minutes. (G.S. 159-15)

15. WHO PERFORMS OR OVERSEES THE FINANCIAL MANAGEMENT OF A SOIL AND WATER CONSERVATION DISTRICT?

- The answer depends on whether the District is part of a county government or operates independently as a public authority.

DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT

- If the District is a county department or party of a county department the county's finance officer is responsible for the financial management of the District.

DISTRICT IS AN INDEPENDENT PUBLIC AUTHORITY

- If the District operates independently as a public authority, the District Board must appoint a finance officer to serve at its pleasure. The finance officer may be a District staff member, a board member, or the District's budget officer. (G.S. 159-24)

16. WHAT ARE THE FINANCIAL MANAGEMENT REQUIREMENTS OF THE LGBFCA?

FINANCE OFFICER (G.S. 159-24, -25)

- Each unit of local government and public authority must appoint a finance officer to hold office at the pleasure of the appointing board or official.
 - The finance officer may be entitled accountant, treasurer, finance director, finance officer, or any other descriptive title.
- The finance officer is required to perform the following duties:
 - Keep the accounts in accordance with generally accepted accounting principles and the rules and regulations of the Local Government Commission;
 - Disburse all funds in compliance with the LGBFCA;
 - Prepare and file with the governing board a statement of financial condition;
 - Receive and deposit all monies;

- Maintain all records concerning bonded debt and other obligations and determine the amount of money required for debt service each year;
- Supervise the investment of public monies; and
- Perform any other duties prescribed by law or assigned by the manager, budget officer, governing board, or the Local Government Commission.

FIDELITY BONDS (G.S. 159-29; G.S. 139-7)

DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT

- G.S. 159-29 requires that a local government's and public authority's finance officer give a true accounting and faithful performance bond of at least \$50,000.
 - The bond amount is set and paid for by the governing board (the board of county commissioners if the District is part of the county and the District board if the District operates as a public authority).
- G.S. 159-29 also requires each officer, employee, or agent of a local government or public authority who handles or has in his or her custody more than \$100 of the unit's or authority's funds at any time, or who handles or has access to the inventories of the unit or authority, give a faithful performance bond in an amount determined by the governing board.
 - The governing board may pay the premium on the bond.
 - The local government or public authority may adopt a system of blanket faithful performance bonding as an alternative to individual bonds, except for the finance officer.

DISTRICT IS AN INDEPENDENT PUBLIC AUTHORITY

- In addition to the requirements of G.S. 159-29 (summarized above), G.S. 139-7 requires that the District's board of supervisors provide for the execution of surety bonds for all employees and officers who are entrusted with funds or property.

BANK ACCOUNTS (G.S. 159-31)

- The governing board of each local government and public authority must designate as its official depositories one or more banks, savings and loan

associations or trust companies in the State. (The governing board may select a national bank located in another state with written permission of the Secretary of Revenue.) (G.S. 159-31)

- It is unlawful for a local government or public authority to deposit funds in any place, bank, savings and loan association, or other institution other than an official depository.
- All public funds on deposit must be fully secured by deposit insurance, surety bonds, letters of credit issued by a Federal Home Loan Bank, or certain investment securities.
- *EXAMPLE: Assume that a District receives a \$50,000 grant during the fiscal year. It wishes to use the grant proceeds to support an ongoing project and needs cash on a ready basis. May the District establish a checking account at a local bank only for this purpose? The answer is no.*
 - *If the District comprises a county department or is part of a county department, the board of county commissioners must designate all official depositories. The county finance officer must establish and maintain all bank accounts in the designated official depositories. The board of county commissioners, however, may appoint a deputy finance officer who is an officer or employee of the District and authorize the deputy finance officer to carry out the expenditure control and disbursement duties for the District. That is, the board of county commissioners may authorize the deputy finance officer to obligate and disburse District funds in accordance with the annual budget ordinance or a project ordinance.*
 - *If the District operates independently as a public authority, the governing board is the District board. The District board must designate all official depositories. The District finance officer must establish and maintain all bank accounts in the designated official depositories.*

ACCOUNTING SYSTEM (G.S. 159-26)

- Each local government and public authority must establish and maintain an accounting system designed to show in detail its assets, liabilities, equities, revenues, and expenditures.

- Except as otherwise provided by the Local Government Commission, each local government and public authority must use the modified accrual basis of accounting.

DAILY DEPOSIT (G.S. 159-32)

- All monies collected or received by an officer or employee of a local government and public authority must be deposited in an official depository on a daily basis.
 - The governing board may waive the daily deposit requirement for amounts up to \$250, but a deposit must occur at least once per month.

INVESTMENTS (G.S. 159-30)

- A local government or public authority may deposit at interest or invest all or part of the cash balance of any fund.
- The finance officer must manage investments subject to whatever restrictions and directions the governing board imposes.
- G.S. 159-30 lists the only authorized investment vehicles for local governments and public authorities.

ANNUAL AUDIT (G.S. 159-34, G.S. 139-7)

DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT

- Each local government and public authority must have its accounts audited after the close of the fiscal year by a certified public accountant or an accountant certified by the Local Government Commission as qualified to audit the local government accounts.
 - The audit contract must be approved by staff to the Local Government Commission and the completed audit must be filed with the secretary of the Local Government Commission.
- The annual audit of the District's funds will be covered by the county's annual audit.

DISTRICT IS AN INDEPENDENT PUBLIC AUTHORITY

- If the District manages its own fiscal affairs, it may satisfy the annual audit requirement in one of two ways:
 - (1) It may have its accounts audited after the close of the fiscal year by a certified public accountant or an accountant certified by the Local Government Commission as qualified to audit the local government accounts.
 - The audit contract must be approved by staff to the Local Government Commission and the completed audit must be filed with the secretary of the Local Government Commission.
 - (2) The District board of supervisors may provide for an internal audit, and have it certified, under oath, by the chair of the board that it is a true and accurate reflection of the accounts and disbursements.

17. WHAT ARE THE REQUIREMENTS FOR ENCUMBERING AND DISBURSING DISTRICT MONIES?

- Before District monies may be encumbered (e.g. goods ordered or services contracted for) the finance officer, or a deputy finance officer appointed by the governing board, must review the purchase order, contract or other obligation to determine (1) if it is covered by an appropriation in the budget ordinance or in a project ordinance and (2) if enough money remains in the appropriation to pay whatever amount will come due during the fiscal year. (G.S. 159-28)
 - The finance officer or deputy finance officer must stamp the written document evidencing the obligation on the part of the District (or county, if the District is part of the county government) with a certificate stating that the instrument has been preaudited in the manner required by the LGBFCA. The finance officer or deputy finance officer also must sign the certificate to attest to its validity.
 - If the signed “preaudit” certificate is not included on any document evidencing the obligation of the District (or county, if the District is part of the county government) to pay money, the transaction is void.
- Before District monies may be disbursed (e.g. goods or services paid for) the finance officer may approve the claim only if (1) the amount is due and payable; (2) the obligation is covered by an appropriation in the budget ordinance or in a project ordinance; and (3) enough money remains in the appropriation to cover the amount due. (G.S. 159-28)

- A local government or public authority may not pay a bill, invoice, salary, or other claim except by a check or draft on an official depository or by a bank wire transfer from an official depository.
 - The check or draft must bear on its face a certificate signed by the finance officer, or a deputy finance officer approved for this purpose by the governing board, and countersigned by another official of the District (or county, if the District is part of the county government). The certificate must state that the disbursement has been approved as required by the LGBFCA. (G.S. 159-25, -28)
- If an officer or employee of a local government or public authority incurs an obligation or pays out or causes to be paid out any funds in violation of the provisions of the LGBFCA, the officer or employee may be held personally liable for the sums so committed or disbursed. (G.S. 159-28)
- *EXAMPLE: Assume that the district is a county department. The county's board of commissioners has designated the District's accountant as a deputy finance officer for purposes of encumbering and disbursing the District's funds. The county's board of commissioners has designated the chairman of the District's board as the individual responsible for countersigning the checks. Although, pursuant to G.S. 159-28.1, the county's board of commissioners may authorize the chairman of the District's board to use a signature stamp for ease of administration (and allow another employee to actually stamp the chairman's name on the checks), the chairman of the District's board remains liable for any disbursement of public funds that are not in accordance with the LGBFCA.*

18. IF A DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT DOES THE BOARD OF COUNTY COMMISSIONERS HAVE TOTAL DISCRETION AS TO HOW THE DISTRICTS FUNDS ARE SPENT?

- It depends. If the funds that the District receives are appropriated from the county's general fund revenues or are received from another source (state, grant, donation, fundraiser, etc.) as unrestricted funds (funds not dedicated to any specific purpose) the board of county commissioners is authorized, but not required, to direct how the funds are spent by the District. The board of county commissioners must exercise its discretion through the budget ordinance or project ordinance appropriations. If the District receives funds from another source as restricted funds (funds dedicated to a specific purpose) the board of county commissioners must appropriate the funds in the budget ordinance or a project ordinance for the specified purpose. Note that even if the funds are received from

an outside source as unrestricted funds, if they are intended for District use the board of county commissioners may not appropriate them for other, non-District, expenditures.

19. IF A DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT, MAY IT EXPEND CERTAIN FUNDS WITHOUT GOING THROUGH THE COUNTY BUDGETING PROCESS?

- No. All funds received by a District that is a county department or part of a county department, from whatever source, must be included in the county's budget ordinance (or a project ordinance) before they may be spent. (The only exceptions are moneys included in trust and agency funds or intragovernmental service funds, as described in Questions 5, 10 & 11 above.) If the funds are received after the initial budget ordinance is adopted for the fiscal year, the board of county commissioners must amend the budget ordinance to include the additional funds and authorize their expenditure before the funds may be disbursed.

20. IF A DISTRICT IS A COUNTY DEPARTMENT OR PART OF A COUNTY DEPARTMENT, MAY IT MAINTAIN A BANK ACCOUNT THAT IS NOT AUTHORIZED BY THE COUNTY FOR CERTAIN, LIMITED PURPOSES, SUCH AS TO ACCOUNT FOR GRANT PROCEEDS OR MONEYS GENERATED FROM FUNDRAISING ACTIVITIES?

- No. If a District is a county department or part of a county department, all funds must be deposited into one or more accounts that are established by the county finance officer in an official depository (designated by the board of county commissioners).
 - The county finance officer may establish a separate account or multiple accounts within an official depository that are specifically designated for District funds, though. And, the board of county commissioners may appoint a District employee or official as a deputy finance officer for purposes of disbursing funds from the District accounts. (As discussed in Question 19, however, with very limited exceptions, all moneys must be appropriated through a budget ordinance or project ordinance before being expended.)