

**§ 159-151. Approval of application by Commission.**

(a) In determining whether a proposed contract shall be approved, the Commission may consider:

- (1) Whether the undertaking is necessary or expedient.
- (2) The nature and amount of the outstanding debt of the contracting unit.
- (3) The unit's debt management procedures and policies.
- (4) The unit's tax and special assessments collection record.
- (5) The unit's compliance with the Local Government Budget and Fiscal Control Act.
- (6) Whether the unit is in default in any of its debt service obligations.
- (7) The unit's present tax rates, and the increase in tax rate, if any, necessary to raise the sums to fall due under the proposed contract.
- (8) The unit's appraised and assessed value of property subject to taxation.
- (9) The ability of the unit to sustain the additional taxes necessary to perform the contract.
- (10) If the proposed contract is for utility or public service enterprise, the probable net revenues of the undertaking to be financed and the extent to which the revenues of the utility or enterprise, after addition of the revenues of the undertaking to be financed, will be sufficient to meet the sums to fall due under the proposed contract.
- (11) Whether the undertaking could be financed by a bond issue, and the reasons and justifications offered by the contracting unit for choosing this method of financing rather than a bond issue.

The Commission shall have authority to inquire into and to give consideration to any other matters that it may believe to have bearing on whether the contract should be approved.

(b) The Commission shall approve the application if, upon the information and evidence it receives, it finds and determines:

- (1) That the proposed contract is necessary or expedient.
- (2) That the contract, under the circumstances, is preferable to a bond issue for the same purpose.
- (3) That the sums to fall due under the contract are adequate and not excessive for its proposed purpose.
- (4) 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.
- (5) That the increase in taxes, if any, necessary to meet the sums to fall due under the contract will not be excessive.
- (6) That the unit is not in default in any of its debt service obligations.

The Commission need not find all of these facts and conclusions if it concludes that (i) the proposed project is necessary and expedient, (ii) the proposed undertaking cannot be economically financed by a bond issue and (iii) the contract will not require an excessive increase in taxes.

If the Commission tentatively decides to deny the application because it cannot be supported from the information presented to it, it shall so notify the unit filing the information. If the unit so requests, the Commission shall hold a public hearing on the application at which time any interested persons shall be heard. The Commission may appoint a hearing officer to conduct the hearing and to present a summary of the testimony and his recommendation for the Commission's consideration. Notwithstanding the provisions of this subsection, the Commission may deny the application of any local school administrative unit or community college that fails to comply with G.S. 143-64.17A(a1). (1971, c. 780, s. 1; 1973, c. 494, s. 32; 2022-14, s. 7.1.)