

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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HOUSE BILL 1369*

Short Title: Comm. Colleges' Lease Purchase Authority.

(Public)

Sponsors: Representatives Rayfield, Bonner, Carpenter, Moore, Sexton, Shubert, Womble; Baddour, Hurley, Morris, Mosley, Preston, Sutton, Tolson, and Warner.

Referred to: Education, if favorable, Finance.

May 21, 1998

A BILL TO BE ENTITLED

AN ACT TO CLARIFY COMMUNITY COLLEGES' AUTHORITY TO ENTER INTO
LEASE PURCHASE AND INSTALLMENT PURCHASE CONTRACTS FOR
EQUIPMENT.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115D-20 is amended by adding a new subdivision to read:

"(11) To enter into lease purchase and installment purchase contracts for
equipment under G.S. 115D-58.14."

Section 2. Article 4A of Chapter 115D of the General Statutes is amended by
adding a new section to read:

"§ 115D-58.14. Lease purchase and installment purchase contracts for equipment.

(a) Authority. – The board of trustees of a community college may use lease
purchase or installment purchase contracts to purchase or finance the purchase of
equipment as provided in this section.

(b) Contract Approval. – Contracts for more than one hundred thousand dollars
(\$100,000) or for a term of more than three years shall be subject to review and approval
as follows:

(1) By the State Board of Community Colleges if the obligation will be paid
from State funds; or

1 (2) By the tax-levying authority of the institution if the obligation will be
2 paid from local funds.

3 If a contract is approved by a tax-levying authority under this subsection, in each year the
4 tax-levying authority shall appropriate sufficient funds to meet the amounts to be paid
5 during the fiscal year under the contract.

6 (c) Local Government Commission. – A contract that is subject to approval by the
7 tax-levying authority also shall be subject to approval by the Local Government
8 Commission as provided in Article 8 of Chapter 159 of the General Statutes if the
9 contract:

10 (1) Extends for five or more years from the date of the contract;

11 (2) Obligates the board of trustees to pay sums of money to another,
12 regardless of whether the payee is a party to the contract; and

13 (3) Obligates the board of trustees to pay five hundred thousand dollars
14 (\$500,000) or more over the full term of the contract.

15 (d) Application of Section. – When determining whether a contract is subject to
16 approval under this section the total cost of exercising an option to upgrade property shall
17 be taken into consideration. The term of a contract shall include periods that may be
18 added to the original term through the exercise of an option to renew or extend.

19 (e) Nonsubstitution Clause. – No contract entered into under this section may
20 contain a nonsubstitution clause that restricts the right of a board of trustees to:

21 (1) Continue to provide a service or activity; or

22 (2) Replace or provide a substitute for any property financed or purchased
23 by the contract.

24 (f) Nonappropriations Clause. – No deficiency judgment may be rendered against
25 any board of trustees, any tax-levying authority, the State Board of Community Colleges,
26 or the State of North Carolina in any action for breach of a contractual obligation
27 authorized by this section. The taxing power of a tax-levying authority and the State is
28 not and may not be pledged directly or indirectly to secure any moneys due under a
29 contract authorized by this section."

30 Section 3. G.S. 115D-5 is amended by adding a new subsection to read:

31 "(i) The State Board shall review and approve lease purchase and installment
32 purchase contracts as provided in G.S. 115D-58.14(b). The State Board shall adopt
33 policies and procedures governing the review and approval process."

34 Section 4. This act is effective when it becomes law and applies to contracts
35 entered into on or after that date.