

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 1765

Short Title: Sales Tax for School Construction Projects. (Public)

Sponsors: Senators Berger of Franklin, Tillman; Atwater, Bingham, Dorsett, Forrester, Garwood, Graham, Hartsell, Holloman, Hoyle, Jenkins, Kerr, Kinnaird, Lucas, and Weinstein.

Referred to: Finance.

May 23, 2006

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE COUNTIES TO LEVY A ONE-HALF CENT LOCAL SALES AND USE TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY PURPOSES.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 46.

"Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax.

"§ 105-535. Short title.

This Article is the Fourth One-Half Cent (1/2¢) Local Government Sales and Use Tax Act.

"§ 105-536. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) local sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter, and the third one-half cent (1/2¢) local sales and use tax under Article 44 of this Chapter.

"§ 105-537. Levy.

If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

"§ 105-538. County election on adoption of tax.

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct a special election on the question of whether to levy local

1 one-half percent (1/2%) sales and use taxes in the county as provided in this Article.
2 The election shall be held on or after January 1, 2007, on a date jointly agreed upon by
3 the two boards and shall be held in accordance with the procedures of G.S. 163-287.

4 (b) Ballot Question. – The question to be presented on a ballot for a special
5 election concerning the levy of the taxes authorized by this Article shall be in the
6 following form:

7 FOR AGAINST

8 One-half percent (1/2%) local sales and use taxes, in addition to all current
9 State and local sales and use taxes.'

10 **"§ 105-539. Administration.**

11 Except as provided in this Article, the adoption, levy, collection, administration, and
12 repeal of the additional taxes authorized by this Article shall be in accordance with
13 Article 39 of this Chapter. A tax levied under this Article does not apply to the sales
14 price of food that is exempt from tax pursuant to G.S. 105-164.13B.

15 **"§ 105-540. Distribution of taxes.**

16 (a) Point of Origin. – The Secretary shall, on a monthly basis, allocate to each
17 taxing county one-half of the net proceeds of the tax collected in that county under this
18 Article. If the Secretary collects taxes under this Article in a month and the taxes cannot
19 be identified as being attributable to a particular taxing county, the Secretary shall
20 allocate one-half of the net proceeds of these taxes among the taxing counties in
21 proportion to the amount of taxes collected in each county under this Article in that
22 month.

23 (b) Per Capita. – The Secretary shall, on a monthly basis, allocate the remaining
24 net proceeds of the tax collected under this Article among the taxing counties on a per
25 capita basis according to the most recent annual population estimates certified to the
26 Secretary by the State Budget Officer. The Secretary shall then adjust the amount
27 allocated to each county as provided in G.S. 105-486(b).

28 (c) Distribution. – On a monthly basis, the Secretary shall distribute to each
29 taxing county the amounts allocated under this section.

30 **"§ 105-541. Use.**

31 (a) Use. – Counties may use the proceeds of a tax levied under this Article only
32 for public school capital outlay purposes as defined in G.S. 115C-426(f) and to retire
33 indebtedness incurred by the county on or after the date of the resolution levying the tax
34 for these purposes.

35 (b) Nonsupplant Restriction. – It is the purpose of this Article for counties to
36 appropriate funds generated under this Article to increase the level of county spending
37 for public school capital outlay purposes above the level of spending before the levy of
38 the tax authorized in this Article. A county that levies a tax under this Article shall
39 continue to spend for public school capital outlay purposes the same amount of money it
40 would have spent for those purposes if it had not levied the tax."

41 **SECTION 2.** A tax levied under Article 46 of Chapter 105 of the General
42 Statutes, as enacted by this act, does not apply to construction materials purchased to
43 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
44 date of the levy or entered into or awarded pursuant to a bid made before the effective

1 date of the levy when the construction materials would otherwise be subject to the tax
2 levied under Article 46 of Chapter 105 of the General Statutes.

3 **SECTION 3.** G.S. 105-269.14(b) reads as rewritten:

4 "(b) Distribution. – The Secretary must distribute a portion of the net use tax
5 proceeds collected under this section to counties and cities. The portion to be distributed
6 to all counties and cities is the total net use tax proceeds collected under this section
7 multiplied by a fraction. The numerator of the fraction is the local use tax proceeds
8 collected under this section. The denominator of the fraction is the total use tax
9 proceeds collected under this section. The Secretary must distribute this portion to the
10 counties and cities in proportion to their total distributions under Articles 39, 40, 42, 43,
11 ~~and 444~~, and 46 of this Chapter and Chapter 1096 of the 1967 Session Laws for the
12 most recent period for which data are available. The provisions of G.S. 105-472,
13 105-486, ~~and 105-501-105-501~~, and 105-540 do not apply to tax proceeds distributed
14 under this section."

15 **SECTION 4.** This act is effective when it becomes law.