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Short Title: School Taxes/Bonds.

(Public)

Sponsors:

Referred to:

April 10, 1991

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE CERTAIN SCHOOL DISTRICT BONDS AND TAXES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 115C-512 reads as rewritten:

**"§ 115C-512. Expansion of existing supplemental school tax area pursuant to merger of school administrative units in certain counties.**

(a) This section ~~shall apply to counties~~ applies to:

(1) Counties that have three school administrative units located entirely within the county, only one of which units has a supplemental school tax in effect that is levied exclusively by the elected school board of the administrative unit.

(2) Counties that have three school administrative units, two of which are entirely within the county and one of which is located in more than one county.

(b) If a school administrative unit in a county to which this section applies merges with another school administrative unit in the county, and one of the merging units has previously voted a supplemental school tax that is in effect prior to and at the time of the merger, then the geographic area subject to the supplemental school tax in effect prior to the merger shall be expanded to include the entire geographic area encompassed by the new school administrative unit resulting from the merger. The levy and collection of and the expenditure of revenues from the tax shall be expanded as

1 herein provided without approval of the voters of the geographic area directly affected  
2 by the merger, and shall be used for purposes provided in G.S. 115C-501(a).

3 (b1) If legislation is enacted providing for the merger of two school administrative  
4 units located entirely within a county described in subdivision (a)(2), and one of the  
5 merging units has previously voted a supplemental school tax that is in effect, then from  
6 July 1, 1991, and for two years following the effective date of the merger, the board of  
7 commissioners of the county in which the units are located may create a special tax  
8 district pursuant to this Article consisting of one of the merging units and may levy a  
9 supplemental school tax in that district at a rate that is different from the rate levied in  
10 the remainder of the merged unit. The tax levied in the special district may be levied  
11 without approval of the voters of the district but may not exceed the amount of the  
12 supplemental school tax previously voted in one of the merged units. The supplemental  
13 school tax levied pursuant to this subsection may be used for any purpose for which a  
14 board of education may budget funds under Article 31 of Chapter 115C of the General  
15 Statutes.

16 (c) Notwithstanding levying authority in existence prior to the merger, the board  
17 of county commissioners shall, upon merger of the administrative units, have the  
18 exclusive authority to levy the supplemental tax expanded in accordance with this  
19 section, provided that the tax shall be levied at a rate not to exceed the rate of the  
20 supplemental school tax in effect prior to the merger of the school administrative units."

21 Sec. 2. G.S. 115C-501 is amended by adding a new subsection to read:

22 "(i) To Vote School Bonds and Taxes in Certain Merged School Administrative  
23 Units. – Elections for the purpose of authorizing the levy of certain taxes and the  
24 issuance of bonds shall be called by a merged school administrative unit described in  
25 G.S. 115C-513 with the consent of the boards of county commissioners of both counties  
26 in which the merged unit is located. The election shall be conducted and the results  
27 canvassed by the boards of elections of both counties. The boards of elections shall  
28 certify the results of the election to the board of education of the merged school  
29 administrative unit. The board of education shall certify and declare the result of the  
30 election, which shall be determined on an aggregate basis from the results certified by  
31 the boards of elections. The board of education shall publish a statement of the result  
32 once as provided in the Local Government Bond Act, Article 4 of Chapter 159 of the  
33 General Statutes."

34 Sec. 3. Article 36 of Chapter 115C of the General Statutes is amended by  
35 adding a new section to read:

36 **"§ 115C-513. Special tax for certain merged school administrative units.**

37 (a) Scope. This section applies to a merged school administrative unit that  
38 consists of one entire county and part of a second county and is composed of two  
39 merging units, one of which is located within one county and one of which is located  
40 partly in the same county as the first unit and partly in a second county. A merged  
41 school administrative unit to which this section applies may levy taxes as provided in  
42 this section to be applied to the payment of notes, bonds, or refunding bonds issued to  
43 finance capital costs of school facilities as described in G.S. 159-48.

1       **(b)** Issuance of Bonds. The board of education of a merged school administrative  
2 unit may issue notes, bonds, or refunding bonds at one time or from time to time to pay  
3 the capital costs of school facilities as described in G.S. 159-48. The bonds shall be  
4 issued and maintained in accordance with the provisions of Articles 1, 4, 5A, 7, 9, 10,  
5 and 11 of Chapter 159 of the General Statutes, except as modified by this section.

6       The board of education of a merged school administrative unit shall call for a  
7 referendum authorizing the issuance of notes, bonds, and refunding bonds and the levy  
8 of a tax to pay amounts relating to these notes, bonds, or refunding bonds. The  
9 referendum may be called only with the consent of the boards of commissioners of both  
10 counties in which the merged school administrative unit is located. The referendum  
11 shall be held in the merged school administrative unit and only those qualified voters  
12 who reside in the unit may vote. The board of commissioners of each county shall have  
13 the referendum conducted by the board of elections of its county.

14       After issuance of the approved bonds, the merged school administrative unit shall  
15 make timely payments of principal and interest on the bonds after receipt of notification  
16 of its debt service obligation pursuant to G.S. 159-35. The provisions of G.S. 159-36  
17 govern a failure by the merged school administrative unit to levy taxes or otherwise  
18 provide for payment of the debt.

19       Bonds, notes, and refunding bonds issued under this section and their transfer  
20 (including any profit made on the sale thereof) shall be exempt from all State, county,  
21 and municipal taxation and assessment, direct or indirect, general or special, whether  
22 imposed for the purpose of general revenue or otherwise, excluding inheritance and gift  
23 taxes. The interest on bonds, notes, and refunding bonds is not subject to taxation as to  
24 income. The bonds, notes, and refunding bonds are not subject to taxation when they  
25 constitute a part of the surplus of a bank, trust company, or other corporation.

26       Article 9 of the North Carolina Uniform Commercial Code, Chapter 25 of the  
27 General Statutes, does not apply to any security interest created in connection with the  
28 issuance of bonds under this section.

29       **(c)** Tax. If a majority of the qualified voters of a merged school administrative  
30 unit voting on the question approve the issuance of bonds and levy of a tax as provided  
31 in this section, the board of education of the merged school administrative unit may levy  
32 a tax on all property having a situs in the merged school administrative unit for the  
33 purpose of retiring bonds issued by the unit under this section. Taxes levied pursuant to  
34 this section may be levied prior to the issuance of notes or bonds. The authority of a  
35 merged school administrative unit to levy a tax pursuant to this section terminates after  
36 all of the related notes, bonds, and refunding bonds are discharged or paid.

37       Before April 15 of each year, the tax assessor of each county in which the merged  
38 school administrative unit is located shall certify to the superintendent of schools an  
39 estimate of the total assessed value of property in the county subject to taxation on  
40 behalf of the merged school administrative unit pursuant to this Article. The board of  
41 education of the merged school administrative unit, in the budget it submits to each  
42 board of county commissioners, shall set the rate of ad valorem tax it levies as a tax  
43 under this section. The levy under this section shall be at the rate necessary to provide

1 for payment of interest on and principal of outstanding notes, bonds, and refunding  
2 bonds issued by the merged school administrative unit.

3 Each county in which the merged school administrative unit is located shall compute  
4 and collect this tax in the same manner that county taxes are collected. The tax shall be  
5 shown separately on the tax receipts for the fiscal year. Collections shall be remitted to  
6 the merged school administrative unit within 10 days after the close of each calendar  
7 month. Partial payments shall be proportionally divided between the county collecting  
8 the tax and the merged school administrative unit. The board of commissioners of each  
9 county collecting the tax levied under this section may, in its discretion, deduct from the  
10 proceeds of the tax the actual additional cost to the county of computing, billing, and  
11 collecting the tax."

12 Sec. 4. G.S. 159-44(4) reads as rewritten:

13 "(4) 'Unit,' 'unit of local government,' or 'local government' means  
14 counties; cities, towns, and incorporated villages; sanitary districts;  
15 mosquito control districts; hospital districts; merged school  
16 administrative units described in G.S. 115C-513; metropolitan  
17 sewerage districts; metropolitan water districts; county water and  
18 sewer districts; regional public transportation authorities; and special  
19 airport districts."

20 Sec. 5. G.S. 159-48(e) reads as rewritten:

21 "(e) Each sanitary district, mosquito control district, hospital district, merged  
22 school administrative unit described in G.S. 115C-513; metropolitan sewerage district,  
23 metropolitan water district, county water and sewer district, regional public  
24 transportation authority and special airport district is authorized to borrow money and  
25 issue its bonds under this Article in evidence thereof for the purpose of paying any  
26 capital costs of any one or more of the purposes for which it is authorized, by general  
27 laws uniformly applicable throughout the State, to raise or appropriate money, except  
28 for current expenses."

29 Sec. 6. G.S. 159-51 reads as rewritten:

30 "**§ 159-51. Application to Commission for approval of bond issue; preliminary**  
31 **conference; acceptance of application.**

32 No bonds may be issued under this Article unless the issue is approved by the Local  
33 Government Commission. The governing board of the issuing unit shall file an  
34 application for Commission approval of the issue with the secretary of the Commission.  
35 If the issuing unit is a regional public transportation authority, the application must be  
36 accompanied by a resolution of the special tax board of that authority approving of the  
37 application. The application shall state such facts and have attached to it such  
38 documents concerning the proposed bonds and the financial condition of the issuing unit  
39 as the secretary may require. The Commission may prescribe the form of the  
40 application.

41 Before he accepts the application, the secretary may require the governing board or  
42 its representatives to attend a preliminary conference to consider the proposed bond  
43 issue. If the issuing unit is a merged school administrative unit described in G.S. 115C-

1 513, each county in which the merged unit is located may attend the preliminary  
2 conference.

3 After an application in proper form has been filed, and after a preliminary  
4 conference if one is required, the secretary shall notify the unit in writing that the  
5 application has been filed and accepted for submission to the Commission. The  
6 secretary's statement shall be conclusive evidence that the unit has complied with this  
7 section."

8 Sec. 7. G.S. 105-213(a) reads as rewritten:

9 "(a) There is annually appropriated from the General Fund to counties and  
10 municipalities the amount of revenue collected under this Article during the preceding  
11 fiscal year, plus an amount equal to forty percent (40%) of the tax collected on accounts  
12 receivable during the preceding fiscal year and less an amount equal to the costs during  
13 the preceding fiscal year of:

- 14 (1) Refunds made during the fiscal year of taxes levied under this Article.
- 15 (2) The Department of Revenue to collect and administer the taxes levied  
16 under this Article.
- 17 (3) The Department of Revenue in performing the duties imposed by  
18 Article 15 of this Chapter.
- 19 (4) The Property Tax Commission.
- 20 (5) The Institute of Government in operating a training program in  
21 property tax appraisal and assessment.

22 The appropriation shall be distributed by August 30 of each year. The appropriation  
23 shall be included in the Current Operations Appropriations Act.

24 To distribute the appropriation, the Secretary of Revenue shall keep a separate  
25 record by counties of the taxes collected under this Article and shall certify to the State  
26 Controller and to the State Treasurer the amount to be distributed to each county and  
27 municipality in the State. The State Controller shall then issue a warrant on the State  
28 Treasurer to each county and municipality in the amount certified.

29 The Secretary shall allocate the amount appropriated under this Article to the  
30 counties according to the county in which the taxes were collected. The Secretary shall  
31 then increase the amount allocable to each county by a sum equal to forty percent (40%)  
32 of the amount of tax on accounts receivable allocated to the county on the basis of  
33 collections. The amounts so allocated to each county shall in turn be divided between  
34 the county and the municipalities in the county in proportion to the total amount of ad  
35 valorem taxes levied by each during the fiscal year preceding the distribution. In  
36 dividing these amounts between each county and its municipalities, the Secretary shall  
37 treat taxes levied by a merged school administrative unit described in G.S. 115C-513 in  
38 a part of the unit located in a county as taxes levied by the county in which that part is  
39 located. For the purpose of computing the distribution of the intangibles tax to any  
40 county and the municipalities located in the county for any year with respect to which  
41 the property valuation of a public service company is the subject of an appeal pursuant  
42 to the provisions of the Machinery Act, or to applicable provisions of federal law, and  
43 the Department of Revenue is restrained by operation of law or by a court of competent  
44 jurisdiction from certifying such valuation to the county and municipalities therein, the

1 Department shall use the last property valuation of such public service company which  
2 has been so certified in order to determine the ad valorem tax levies applicable to such  
3 public service company in the county and the municipalities therein.

4 The chairman of each board of county commissioners and the mayor of each  
5 municipality shall report to the Secretary of Revenue information requested by the  
6 Secretary to enable the Secretary to distribute the amount appropriated by this section.  
7 If a county or municipality fails to make a requested report within the time allowed, the  
8 Secretary may disregard the county or municipality in distributing the amount  
9 appropriated by this section. The amount distributed to each county and municipality  
10 shall be used by the county or municipality in proportion to property tax levies made by  
11 it for the various funds and activities of the county or municipality, unless the county or  
12 municipality has pledged the amount to be distributed to it under this section in payment  
13 of a loan agreement with the North Carolina Solid Waste Management Capital Projects  
14 Financing Agency. A county or municipality that has pledged amounts distributed  
15 under this section in payment of a loan agreement with the Agency may apply the  
16 amount the loan agreement requires."

17 Sec. 8. G.S. 105-472(2) reads as rewritten:

18 "(2) The net proceeds of the tax collected in a taxing county shall be  
19 divided between the county and the municipalities therein in  
20 proportion to the total amount of ad valorem taxes levied by each  
21 on property having a tax situs in the taxing county during the fiscal  
22 year next preceding such distribution. For purposes of this section,  
23 the amount of the ad valorem taxes levied by such county or  
24 municipality shall include any ad valorem taxes levied by such  
25 county or municipality in behalf of a taxing district or districts and  
26 collected by the county or municipality. In addition, the amount of  
27 taxes levied by a county shall include any ad valorem taxes levied  
28 by a merged school administrative unit described in G.S. 115C-513  
29 in the part of the unit located in the county. In computing the  
30 amount of tax proceeds to be distributed to any county or  
31 municipality, the amount of any ad valorem taxes levied but not  
32 substantially collected shall be ignored. Each county and  
33 municipality receiving a distributable share of the sales and use tax  
34 levied under this Article shall in turn immediately share the  
35 proceeds with any district or districts in behalf of which the county  
36 or municipality levied ad valorem taxes in the proportion that the  
37 district levy bears to the total levy of the county or municipality.  
38 Any county or municipality which fails to provide the Department  
39 of Revenue with information concerning ad valorem taxes levied  
40 by that county or municipality adequate to permit a timely  
41 determination of the appropriate share of that county or  
42 municipality of tax proceeds collected under this Article may be  
43 excluded by the Secretary from each quarterly distribution with  
44 respect to which such information was not provided in a timely

1 manner, and such tax proceeds shall then be distributed only to the  
2 governmental unit or units whose information was provided in a  
3 timely manner. For the purpose of computing the distribution of the  
4 tax under this subsection to any county and the municipalities  
5 located therein for any quarter with respect to which the property  
6 valuation of a public service company is the subject of an appeal  
7 pursuant to the provisions of the Machinery Act, or to applicable  
8 provisions of federal law, and the Department of Revenue is  
9 restrained by operation of law or by a court of competent  
10 jurisdiction from certifying such valuation to the county and the  
11 municipalities therein, the Department shall use the last property  
12 valuation of such public service company which has been so  
13 certified in order to determine the ad valorem tax levies applicable  
14 to such public service company in the county and the  
15 municipalities therein."

16 Sec. 9. Interpretation of Act.

17 (a) Additional method. The foregoing sections of this act shall be deemed to  
18 provide an additional and alternative method for the doing of things authorized thereby  
19 and shall be regarded as supplemental and additional to powers conferred by other laws,  
20 and shall not be regarded as in derogation of any powers now existing.

21 (b) Statutory references. References in this act to specific sections or Chapters of  
22 the General Statutes are intended to be references to such sections as they may be  
23 amended from time to time by the General Assembly.

24 (c) Liberal construction. This act, being necessary for the health and welfare of  
25 the people of the State, shall be liberally construed to effect these purposes.

26 (d) Inconsistent provisions. Insofar as the provisions of this act are inconsistent  
27 with the provisions of any general laws, this act shall be controlling.

28 (e) Severability. If any provision of this act or the application thereof to any  
29 person or circumstance is held invalid, such invalidity shall not affect other provisions  
30 or applications of the act which can be given effect without the invalid provision or  
31 application, and to this end the provisions of this act are severable.

32 Sec. 10. This act is effective upon ratification.