

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 353**

Short Title: Governor Not Withhold Local Reimbursements. (Public)

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Sponsors: Representatives Holloway; Blackwood, Blust, Capps, Cleveland, Culp, Gulley, McMahan, Moore, and Rhodes.

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Referred to: Rules, Calendar, and Operations of the House.

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February 23, 2005

A BILL TO BE ENTITLED

1 AN ACT TO AMEND THE CONSTITUTION OF NORTH CAROLINA TO LIMIT  
2 THE ABILITY OF THE GOVERNOR TO WITHHOLD LOCAL  
3 REIMBURSEMENTS.  
4

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Article III, Section 5(3) of the North Carolina Constitution  
7 reads as rewritten:

8 "(3) Budget. The Governor shall prepare and recommend to the General Assembly  
9 a comprehensive budget of the anticipated revenue and proposed expenditures of the  
10 State for the ensuing fiscal period. The budget as enacted by the General Assembly shall  
11 be administered by the Governor.

12 The total expenditures of the State for the fiscal period covered by the budget shall  
13 not exceed the total of receipts during that fiscal period and the surplus remaining in the  
14 State Treasury at the beginning of the period. To insure that the State does not incur a  
15 deficit for any fiscal period, the Governor shall continually survey the collection of the  
16 revenue and shall effect the necessary economies in State expenditures, after first  
17 making adequate provision for the prompt payment of the principal of and interest on  
18 bonds and notes of the State according to their terms, whenever he determines that  
19 receipts during the fiscal period, when added to any surplus remaining in the State  
20 Treasury at the beginning of the period, will not be sufficient to meet budgeted  
21 expenditures. This section shall not be construed to impair the power of the State to  
22 issue its bonds and notes within the limitations imposed in Article V of this  
23 Constitution, nor to impair the obligation of bonds and notes of the State now  
24 outstanding or issued hereafter.

25 The General Assembly recognizes that it has required units of local government to  
26 adopt and maintain annual balanced budgets and take other steps to assure financially  
27 sound operations. Accordingly, the General Assembly finds that in order to satisfy those  
28 statutory requirements and provide adequate services to their citizens, units of local

1 government must be able to rely on the funds and local revenue sources the General  
2 Assembly has provided.

3 In exercising the powers contained in this subsection, the Governor shall not  
4 withhold from distribution funds that have been collected by the State on behalf of local  
5 governments or funds that the General Assembly has appropriated, earmarked, or  
6 otherwise committed to local governments unless, after making adequate provision for  
7 the prompt payment of principal of and interest on bonds and notes of the State  
8 according to their terms, the Governor has exhausted all other sources of revenue of the  
9 State including surplus remaining in the treasury at the beginning of the fiscal period.  
10 The intent of this paragraph is that debt service be paid first, local government second,  
11 and then other appropriations.

12 This subsection does not authorize the Governor to withhold revenues from taxes  
13 levied by units of local governments and collected by the State. The General Assembly  
14 recognizes that under Section 19 of Article I of this Constitution and under the Due  
15 Process Clause of the United States Constitution, the State is prohibited from taking  
16 local tax revenue."

17 **SECTION 2.** The amendment set out in this act shall be submitted to the  
18 qualified voters of the State at a statewide election to be held on the Tuesday after the  
19 first Monday in November of 2006, which election shall be conducted under the laws  
20 then governing elections in the State. Ballots, voting systems, or both may be used in  
21 accordance with Chapter 163 of the General Statutes. The question to be used in the  
22 voting systems and ballots shall be:

23 **"[ ] FOR [ ] AGAINST**

24 **Constitutional amendment limiting the ability of the Governor to withhold**  
25 **local reimbursement."**

26 **SECTION 3.** If a majority of the votes cast on the question are in favor of  
27 the amendment set out in this act, the State Board of Elections shall certify the  
28 amendment to the Secretary of State and shall enroll the amendment so certified among  
29 the permanent records of that office. If approved, the amendment set out in this act  
30 becomes effective January 1, 2007.

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