

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 955

Short Title: School Board Fiscal Accountability Act. (Public)

Sponsors: Representatives Gill, Richardson, McManus, and Carney (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

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

April 18, 2013

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR FISCAL ACCOUNTABILITY OF SCHOOL BOARDS BY
AUTHORIZING LOCAL SCHOOL BOARDS TO RAISE REVENUE FOR THE
SUPPORT OF PUBLIC EDUCATION.

The General Assembly of North Carolina enacts:

SECTION 1. Fiscal Responsibility for Local Boards of Education. – Beginning with the 2014-2015 fiscal year, eligible local boards of education shall have authority to levy and collect taxes for the support of public education as provided in this act.

SECTION 2.(a) Requirements for Boards to Be Given Fiscal Responsibility. – Eligible local boards of education are those that satisfy all of the following conditions:

- (1) The local board of education is elected rather than appointed.
- (2) Each local board of education in the county and the board of county commissioners of each county in which the local school administrative unit is located have passed resolutions authorizing the local boards of education to levy taxes under this act.

SECTION 2.(b) A local board of education shall have authority to levy and collect taxes as provided in this act starting with the first fiscal year that begins more than six months after the adoption of the necessary resolutions by the board of county commissioners and the local board of education. The authority to levy and collect taxes includes the authority to take any other actions, including preparation and adoption of the budget, in advance of the start of the fiscal year as necessary to implement the taxing authority for the fiscal year.

SECTION 3.(a) Applicability of Local Government Budget and Fiscal Control Act. – For fiscal year 2014-2015 and subsequent fiscal years, the eligible local boards of education granted tax-levying authority shall be considered units of local government under G.S. 159-7(b)(15) and, accordingly, shall follow the provisions of the Local Government Budget and Fiscal Control Act in Article 3 of Chapter 159 of the General Statutes rather than the School Budget and Fiscal Control Act in Article 31 of Chapter 115C of the General Statutes. However, the eligible local boards of education shall continue to follow the budget format and fund structure in the School Budget and Fiscal Control Act. The reports an eligible board of education is required to file with the secretary of the Local Government Commission pursuant to G.S. 159-33, 159-33.1, and 159-34 shall also be filed with the State Board of Education.

SECTION 3.(b) The superintendent for the eligible local board of education shall be the budget officer.



1 **SECTION 3.(c)** Any questions concerning the budget format and procedures to be
2 followed by the eligible local boards of education granted tax-levying authority shall be
3 resolved by the Local Government Commission.

4 **SECTION 4.(a)** Authority to Levy Property Tax. – Beginning with the budget to
5 be prepared and adopted for the initial fiscal year in which eligible local boards of education
6 have tax-levying authority, the eligible local boards of education shall have the same authority
7 as a board of county commissioners has for purposes of public education to levy and collect
8 taxes on property having situs within the local school administrative unit.

9 **SECTION 4.(b)** For the listing, assessment, and collection of the ad valorem tax,
10 the eligible local boards of education shall have the same authority and shall follow the same
11 procedures as a municipality under Article 22 of Chapter 105 of the General Statutes except as
12 follows:

- 13 (1) An eligible local board of education shall not have the option under
14 G.S. 105-326 of requiring property owners to list their property separately
15 with the local board of education. Instead, the eligible local board of
16 education shall use the abstracts and tax records of the county to determine
17 the property subject to taxation by the eligible local board of education.
- 18 (2) For the property it is entitled to tax, the eligible board of education shall
19 accept and adopt the appraisals and assessments fixed by the county. The
20 eligible board of education shall not constitute a separate board of
21 equalization and review for taxpayers' appeals but shall accept and be bound
22 by the decisions made by the county board of equalization and review and
23 any adjustments made by the board of county commissioners pursuant to
24 G.S. 105-325.
- 25 (3) The eligible local board of education may appoint a tax collector, pursuant to
26 G.S. 105-349, or may enter an interlocal agreement with the board of county
27 commissioners to allow the county's tax collector to serve the same function
28 for the school unit. If the eligible board of education appoints its own tax
29 collector, it still may enter an interlocal agreement with the county to
30 perform parts of the tax collection and foreclosure functions. Whether the
31 eligible board of education appoints its own tax collector or enters an
32 agreement with the county for the county tax collector to perform all or
33 some of those functions, the collection and foreclosure of taxes shall be
34 conducted according to the provisions of Article 26 of Chapter 105 of the
35 General Statutes.

36 **SECTION 4.(c)** Because ad valorem taxes levied by the eligible local boards of
37 education for the initial fiscal year in which the eligible local boards of education have
38 tax-levying authority will not become due until September 1 of that year, and may be paid
39 without penalty beyond that date, the Local Government Commission and the Office of State
40 Budget and Management shall assist each eligible local board of education in developing plans
41 for assuring that sufficient revenues are available for the operation of schools during the
42 beginning portions of the initial fiscal year for the eligible boards to exercise taxing authority.
43 The plans may include the carrying forward of fund balances from the previous year,
44 advancement of State appropriations, transfer of moneys from other funds available in the
45 county, and such other means as may be appropriate.

46 **SECTION 4.(d)** The provisions of G.S. 105-374(h) and G.S. 105-375(k)
47 concerning joint foreclosure and consolidation of liens, respectively, shall apply to eligible
48 local boards of education under this act to the same extent as to counties, cities, and other
49 taxing units.

50 **SECTION 5.** Abolition of Supplemental Taxes. – Effective July 1 of the initial
51 fiscal year in which the eligible local boards have tax-levying authority, any supplemental taxes

1 enacted for the support of the public schools of the local boards of education which are
2 authorized to levy and collect taxes pursuant to this act are repealed. Article 36 of Chapter
3 115C of the General Statutes, concerning voted tax supplements for school purposes, shall not
4 apply in counties in which the local board of education is eligible to levy and collect taxes
5 pursuant to this act.

6 **SECTION 6.(a)** Local Sales Tax Proceeds. – In each county in which a local board
7 of education is authorized to levy and collect taxes pursuant to this act, the eligible local board
8 of education shall receive a portion of the county's distribution from the net proceeds of the
9 local sales and use tax under G.S. 105-472(b) (the first one-cent local tax), 105-486(c) (the first
10 half-cent local tax), and 105-501 (the second half-cent local tax), as provided in subsection (b)
11 of this section. This provision shall not affect the share of the local sales and use tax proceeds
12 distributed to municipalities in the county.

13 **SECTION 6.(b)** The eligible local board of education's share of the net proceeds of
14 local sales and use taxes shall be determined by the ad valorem method as described in
15 G.S. 105-472(b)(2). The distribution of net proceeds of local sales and use tax between counties
16 and municipalities shall first be determined according to the per capita or ad valorem method as
17 chosen by the county. After that calculation is made, the county's distribution then shall be
18 divided between the school unit and the county according to the ad valorem method.

19 **SECTION 6.(c)** The Secretary of Revenue shall allocate and distribute the school
20 unit's share of the local sales and use tax to the eligible board of education on a monthly basis
21 the same as such allocations and distributions are made to counties and municipalities.

22 **SECTION 7.(a)** Existing Indebtedness and Related Local Sales Tax Proceeds. –
23 An eligible local board of education shall enter an interlocal agreement pursuant to
24 G.S. 160A-461 under which the eligible board of education shall make the payments due from
25 the county on any existing indebtedness of the county related to the construction of public
26 school facilities for that school unit, beginning July 1 of the initial fiscal year in which the
27 eligible local boards of education have tax-levying authority. The form of the interlocal
28 agreement shall be set by the Local Government Commission.

29 **SECTION 7.(b)** To the extent that G.S. 105-487 requires a percentage of the
30 county proceeds from the first half-cent local sales and use tax to be dedicated to school capital
31 outlay purposes, and to the extent that G.S. 105-502 requires a percentage of the county
32 proceeds from the second half-cent local sales and use tax to be dedicated to school capital
33 outlay purposes, those proceeds shall be paid by the Secretary of Revenue to the eligible local
34 board of education rather than the board of county commissioners in those counties in which
35 the local board of education has been authorized to levy and collect taxes pursuant to this act.
36 This provision shall apply to sales tax collected July 1 of the initial fiscal year in which the
37 eligible local boards have tax-levying authority, and subsequently.

38 **SECTION 7.(c)** Upon entry of an interlocal agreement pursuant to this section, the
39 county shall transfer to the eligible board of education any capital reserve fund it has created
40 pursuant to G.S. 159-18 for capital expenditures related to the construction of public school
41 facilities. The county shall transfer to the eligible local board of education the amount in the
42 reserve fund as of July 1 of the fiscal year immediately preceding the initial fiscal year in which
43 the eligible local boards of education have tax-levying authority, plus any additional sums
44 appropriated to the fund or earned by the fund after that date, minus any amount expended from
45 the fund to reduce indebtedness related to the construction of public school facilities. This
46 section also shall apply to any capital reserve fund created by the county after July 1 of the
47 fiscal year immediately preceding the initial fiscal year in which the eligible local boards of
48 education have tax-levying authority for indebtedness related to the construction of public
49 school facilities.

50 **SECTION 8.(a)** Issuance of Bonds by Local Board of Education. – An eligible
51 local board of education shall be authorized to issue bonds for the purposes in

1 G.S. 159-48(c)(4) to the same extent and in the same manner as a county is authorized to do so.
2 The faith and credit of the issuing school unit is pledged for the payment of the principal and
3 interest on all bonds issued pursuant to this section, and the power and obligation of the issuing
4 school unit to levy taxes and raise other revenue for the prompt payment of installments of
5 principal and interest shall be unrestricted as to rate and amount.

6 **SECTION 8.(b)** The issuance of bonds by a local school unit pursuant to this
7 section shall be subject to the same procedures and requirements of the Local Government
8 Bond Act as the issuance of such bonds by a county.

9 **SECTION 8.(c)** The Local Government Commission shall determine the
10 authorization and procedure for an eligible local board of education to issue bonds pursuant to
11 this section.

12 **SECTION 9.** G.S. 159-160 reads as rewritten:

13 **"§ 159-160. Definitions.**

14 As used in this Part, the words 'unit' or 'issuing unit' means 'unit of local government' as
15 defined in G.S. 159-44 or G.S. 159-102, 'municipality' as defined in G.S. 159-81, school unit
16 whose local board of education is authorized to levy and collect taxes, and the State of North
17 Carolina."

18 **SECTION 10.** G.S. 159-168 reads as rewritten:

19 **"§ 159-168. 'Unit' defined.**

20 For purposes of this Part, 'unit,' 'unit of local government,' or 'issuing unit' means a 'unit of
21 local government' as defined by G.S. ~~159-7(b)~~159-7(b), a school unit whose board is authorized
22 to levy and collect taxes, and a 'public authority' as defined by G.S. 159-7(b)."

23 **SECTION 11.** Article 32 of Chapter 115C of the General Statutes is amended by
24 adding a new section to read:

25 **"§ 115C-458.1. Loans from State Literary Fund directly to certain school units.**

26 In addition to the authority granted in G.S. 115C-458 to lend monies from the State Literary
27 Fund to counties, the State Board of Education may make loans from the State Literary Fund
28 directly to local boards of education which are authorized to levy and collect taxes. The
29 provisions of this Article and of the rules of the State Board of Education concerning loans
30 from the State Literary Fund shall apply to the loans made directly to local boards of education,
31 except that the county board of commissioners shall have no responsibility for repayment of
32 such loans."

33 **SECTION 12.** Information Provided to County. – In counties in which the local
34 board of education has been authorized to levy and collect taxes pursuant to this act, the
35 provisions of G.S. 115C-429(c) obligating the local board of education to provide certain
36 information to the board of commissioners and similar provisions in the School Budget and
37 Fiscal Control Act and other statutes shall not apply. The local board of education may provide
38 such information to the board of county commissioners in its discretion.

39 **SECTION 13.** G.S. 115C-452 reads as rewritten:

40 **"§ 115C-452. Fines and forfeitures.**

41 (a) The clear proceeds of all penalties and forfeitures and of all fines collected in the
42 General Court of Justice in each county shall be remitted by the clerk of the superior court to
43 the county finance officer, who shall forthwith determine what portion of the total is due to
44 each local school administrative unit in the county and remit the appropriate portion of the
45 amount to the finance officer of each local school administrative unit. Fines and forfeitures
46 shall be apportioned according to the projected average daily membership of each local school
47 administrative unit as determined by and certified to the local school administrative units and
48 the board of county commissioners by the State Board of Education pursuant to G.S. 115C-430.

49 (b) In counties in which the local board of education has been authorized to levy and
50 collect taxes, the clerk of superior court shall remit the clear proceeds of all penalties and
51 forfeitures and all fines collected in the General Court of Justice directly to the finance officer

1 of the local school administrative unit. When both a county board of education and city board
2 of education within the same county have such taxing authority, the clerk of superior court shall
3 remit the proceeds to the finance officer of the county school administrative unit who shall be
4 responsible for determining and remitting to the finance officer of the city school
5 administrative unit that city unit's portion of the proceeds based on projected average daily
6 membership."

7 **SECTION 14.** **Erection of School Buildings.** – The provisions of G.S. 115C-521(b)
8 concerning submission of building needs to the board of county commissioners shall not apply
9 in counties in which the local board of education has been given authority to levy and collect
10 taxes pursuant to this act. Nor shall the provisions of G.S. 115C-521(d) concerning approval of
11 the board of county commissioners for appropriations apply in such counties.

12 **SECTION 15.** **Provision of Equipment for Buildings.** – In counties in which the
13 local board of education has been authorized to levy and collect taxes pursuant to this act, the
14 provisions of G.S. 115C-522 concerning the provision of suitable supplies and good water
15 supplies shall not apply to the board of county commissioners.

16 **SECTION 16.** **Fire Prevention.** – In counties in which the local board of education
17 has been authorized to levy and collect taxes pursuant to this act, the provisions of
18 G.S. 115C-525(b)(2) requiring the board of county commissioners to appropriate funds for fire
19 inspections of school buildings shall not apply. The local board of education shall be
20 responsible for the costs of such inspections in those counties.

21 **SECTION 17.** **Lease Purchase and Installment Purchase Contracts.** – In counties in
22 which the local board of education has been authorized to levy and collect taxes pursuant to this
23 act, the provisions of G.S. 115C-528(g) concerning submission of information on lease
24 purchase and installment purchase contracts to the board of county commissioners shall not
25 apply.

26 **SECTION 18.** **Operational Leases of School Buildings and Facilities.** – In counties
27 in which the local board of education has been authorized to levy and collect taxes pursuant to
28 this act, the provisions of G.S. 115C-530 requiring approval of leases by the board of county
29 commissioners shall not apply.

30 **SECTION 19.** **Capital Leases of School Buildings and Facilities.** – In counties in
31 which the local board of education has been authorized to levy and collect taxes pursuant to this
32 act, the provisions of G.S. 115C-531 requiring approval of leases by the board of county
33 commissioners shall not apply.

34 **SECTION 20.** **Public School Building Capital Fund.** – In counties in which the
35 local board of education has been authorized to levy and collect taxes pursuant to this act, the
36 responsibilities given to the county and the county board of commissioners by Article 38A of
37 Chapter 115C of the General Statutes, the Public School Building Capital Fund, shall be
38 assumed by the administrative school unit and eligible board of education. In those counties,
39 monies should be allocated to the administrative school unit rather than to the county.

40 **SECTION 21.** **No Other Taxing Authority for Board of Education.** – Except as
41 provided in this act, a local board of education shall have no authority to impose or collect a
42 tax.

43 **SECTION 22.** **Commissioners' Discretion to Provide Additional Support.** –
44 Nothing in this act shall prohibit a board of county commissioners from providing additional
45 financial support to an eligible local board of education in its discretion.

46 **SECTION 23.** **Limitations on Tax Rate for the Initial Fiscal Year.** – For the initial
47 fiscal year, an eligible local board of education shall not adopt a property tax rate greater than
48 the rate needed to produce revenue sufficient to offset the county appropriations, calculated on
49 a per-student basis, that will no longer be available to the public schools for that fiscal year,
50 plus an amount necessary to cover the cost-of-living increase from the preceding fiscal year. To
51 enable the eligible board of education to determine the necessary tax rate for the initial fiscal

1 year, the board of county commissioners shall notify the board of education by May 1 before
2 the beginning of the fiscal year of any county funds other than property and sales tax revenues
3 that previously have been appropriated to the local board of education but which will no longer
4 be provided. In determining the property tax rate for the initial fiscal year needed to equal the
5 amount previously appropriated by the county per student, the eligible local board of education
6 shall use the highest per-student appropriation of the three previous fiscal years.

7 **SECTION 24.** This act is effective when it becomes law.