

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

S

2

SENATE BILL 550
Finance Committee Substitute Adopted 5/30/91

Short Title: School Taxes/Bonds.

(Public)

Sponsors:

Referred to:

April 10, 1991

1 A BILL TO BE ENTITLED
2 AN ACT TO AUTHORIZE CERTAIN SCHOOL DISTRICT BONDS AND TAXES.
3 The General Assembly of North Carolina enacts:

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

5 **"§ 115C-512. Expansion of existing supplemental school tax area pursuant to**
6 **merger of school administrative units in certain counties.**

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

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

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

15 (b) If a school administrative unit in a county to which this section applies
16 merges with another school administrative unit in the county, and one of the merging
17 units has previously voted a supplemental school tax that is in effect prior to and at the
18 time of the merger, then the geographic area subject to the supplemental school tax in
19 effect prior to the merger shall be expanded to include the entire geographic area
20 encompassed by the new school administrative unit resulting from the merger. The levy
21 and collection of and the expenditure of revenues from the tax shall be expanded as
22 herein provided without approval of the voters of the geographic area directly affected
23 by the merger, and shall be used for purposes provided in G.S. 115C-501(a).

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

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

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

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

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

34 **"§ 115C-513. Special tax for certain merged school administrative units.**

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

42 (b) Issuance of Bonds. The board of education of a merged school administrative
43 unit may issue notes, bonds, or refunding bonds at one time or from time to time to pay
44 the capital costs of school facilities as described in G.S. 159-48. The bonds shall be

1 issued and maintained in accordance with the provisions of Articles 1, 4, 5A, 7, 9, 10,
2 and 11 of Chapter 159 of the General Statutes, except as modified by this section.

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

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

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

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

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

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

43 Each county in which the merged school administrative unit is located shall compute
44 and collect this tax in the same manner that county taxes are collected. The tax shall be

1 shown separately on the tax receipts for the fiscal year. Collections shall be remitted to
2 the merged school administrative unit within 10 days after the close of each calendar
3 month. Partial payments shall be proportionally divided between the county collecting
4 the tax and the merged school administrative unit. The board of commissioners of each
5 county collecting the tax levied under this section may, in its discretion, deduct from the
6 proceeds of the tax the actual additional cost to the county of computing, billing, and
7 collecting the tax."

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

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

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

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

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

26 "**§ 159-51. Application to Commission for approval of bond issue; preliminary**
27 **conference; acceptance of application.**

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

37 Before he accepts the application, the secretary may require the governing board or
38 its representatives to attend a preliminary conference to consider the proposed bond
39 issue. If the issuing unit is a merged school administrative unit described in G.S. 115C-
40 513, each county in which the merged unit is located may attend the preliminary
41 conference.

42 After an application in proper form has been filed, and after a preliminary
43 conference if one is required, the secretary shall notify the unit in writing that the
44 application has been filed and accepted for submission to the Commission. The

1 secretary's statement shall be conclusive evidence that the unit has complied with this
2 section."

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

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

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

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

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

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

43 The chairman of each board of county commissioners and the mayor of each
44 municipality shall report to the Secretary of Revenue information requested by the

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

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

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

1 valuation of a public service company is the subject of an appeal
2 pursuant to the provisions of the Machinery Act, or to applicable
3 provisions of federal law, and the Department of Revenue is
4 restrained by operation of law or by a court of competent
5 jurisdiction from certifying such valuation to the county and the
6 municipalities therein, the Department shall use the last property
7 valuation of such public service company which has been so
8 certified in order to determine the ad valorem tax levies applicable
9 to such public service company in the county and the
10 municipalities therein."

11 Sec. 9. Interpretation of Act.

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

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

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

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

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

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