

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 325
SENATE BILL 550

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

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

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

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

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

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

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

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

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

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

After issuance of the approved bonds, the merged school administrative unit shall make timely payments of principal and interest on the bonds after receipt of notification of its debt service obligation pursuant to G.S. 159-35. The provisions of G.S. 159-36

govern a failure by the merged school administrative unit to levy taxes or otherwise provide for payment of the debt.

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

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

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

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

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

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

"(4) 'Unit,' 'unit of local government,' or 'local government' means counties; cities, towns, and incorporated villages; sanitary districts; mosquito control districts; hospital districts; merged school administrative units described in G.S. 115C-513; metropolitan sewerage districts;

metropolitan water districts; county water and sewer districts; regional public transportation authorities; and special airport districts."

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

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

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

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

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

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

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

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

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

- (1) Refunds made during the fiscal year of taxes levied under this Article.
- (2) The Department of Revenue to collect and administer the taxes levied under this Article.
- (3) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.

- (4) The Property Tax Commission.
- (5) The Institute of Government in operating a training program in property tax appraisal and assessment.

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

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

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

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

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

"(2) The net proceeds of the tax collected in a taxing county shall be divided between the county and the municipalities therein in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding such distribution. For purposes of this section, the amount of the ad valorem taxes levied by such county or municipality shall include any ad valorem taxes levied by such county or municipality in behalf of a taxing district or districts and collected by the county or municipality. In addition, the amount of taxes levied by a county shall include any ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to any county or municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a distributable share of the sales and use tax levied under this Article shall in turn immediately share the proceeds with any district or districts in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality which fails to provide the Department of Revenue with information concerning ad valorem taxes levied by that county or municipality adequate to permit a timely determination of the appropriate share of that county or municipality of tax proceeds collected under this Article may be excluded by the Secretary from each quarterly distribution with respect to which such information was not provided in a timely manner, and such tax proceeds shall then be distributed only to the governmental unit or units whose information was provided in a timely manner. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located therein for any quarter with respect to which the property valuation of a public service company is the subject of an appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of federal law, and the Department of Revenue is restrained by operation of law or by a court of competent jurisdiction from certifying such valuation to the county and the municipalities therein, the Department shall use the last property valuation of such public service company which has been so certified in order to determine the ad valorem tax levies applicable to such public service company in the county and the municipalities therein."

Sec. 9. Interpretation of Act.

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

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

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

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

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

Sec. 10. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 19th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives