

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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SENATE BILL 1679
Finance Committee Substitute Adopted 6/22/94

Short Title: Multi-County Finance Omnibus.

(Local)

Sponsors:

Referred to:

June 6, 1994

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL
3 GOVERNMENTS IN ORANGE, CHATHAM, FORSYTH, AND NASH
4 COUNTIES.

5 The General Assembly of North Carolina enacts:

6 **PART 1. CHATHAM OCCUPANCY TAX.**

7 Section 1. Occupancy tax. (a) **Authorization and scope.** The Chatham County
8 Board of Commissioners may by resolution, after not less than 10 days' public notice
9 and after a public hearing held pursuant thereto, levy a room occupancy tax of up to
10 three percent (3%) of the gross receipts derived from the rental of any room, lodging, or
11 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
12 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
13 This tax is in addition to any State or local sales tax. This tax does not apply to
14 accommodations furnished by nonprofit charitable, educational, or religious
15 organizations.

16 (b) **Collection.** Every operator of a business subject to the tax levied under this
17 section shall, on and after the effective date of the levy of the tax, collect the tax. This
18 tax shall be collected as part of the charge for furnishing a taxable accommodation. The
19 tax shall be stated and charged separately from the sales records, and shall be paid by
20 the purchaser to the operator of the business as trustee for and on account of the county.
21 The tax shall be added to the sales price and shall be passed on to the purchaser instead
22 of being borne by the operator of the business. The county shall design, print, and
23 furnish to all appropriate businesses and persons in the county the necessary forms for

1 filing returns and instructions to ensure the full collection of the tax. An operator of a
2 business who collects the occupancy tax levied under this section may deduct from the
3 amount remitted to the county a discount equal to the discount the State allows the
4 operator for State sales and use tax.

5 (c) **Administration.** The county shall administer a tax levied under this section.
6 A tax levied under this section is due and payable to the county finance officer in
7 monthly installments on or before the fifteenth day of the month following the month in
8 which the tax accrues. Every person, firm, corporation, or association liable for the tax
9 shall, on or before the fifteenth day of each month, prepare and render a return on a
10 form prescribed by the county. The return shall state the total gross receipts derived in
11 the preceding month from rentals upon which the tax is levied.

12 A return filed with the county finance officer under this section is not a public
13 record as defined by G.S. 132-1 and may not be disclosed except as required by law.

14 (d) **Penalties.** A person, firm, corporation, or association who fails or refuses to
15 file the return or pay the tax required by this section is subject to the civil and criminal
16 penalties set by G.S. 105-236 for failure to pay or file a return for State sales and use
17 taxes. The Chatham County Board of Commissioners has the same authority to waive
18 the penalties for a room occupancy tax that the Secretary of Revenue has to waive the
19 penalties for State sales and use taxes.

20 (e) **Use of tax revenue.** Chatham County shall use at least two-thirds of the
21 net proceeds of the tax levied under this section to promote travel and tourism in
22 Chatham County and shall use the remainder for tourism-related expenditures. The
23 following definitions apply in this subsection:

24 (1) Net proceeds. – Gross proceeds less the cost to the county of
25 administering and collecting the tax, as determined by the finance
26 officer, not to exceed seven percent (7%) of the gross proceeds.

27 (2) Promote travel and tourism. – To advertise or market an area or
28 activity, publish and distribute pamphlets and other materials, conduct
29 market research, or engage in similar promotional activities that attract
30 tourists or business travelers to the area. The term includes
31 administrative expenses incurred in engaging in the listed activities.

32 (3) Tourism-related expenditures. – Expenditures that are designed to
33 increase the use of lodging facilities in the county or to attract tourists
34 or business travelers to the county. The term includes expenditures to
35 construct, maintain, operate, or market a convention or meeting
36 facility, a visitors' center, or a coliseum; and other expenditures that, in
37 the judgment of the board of commissioners, will facilitate and
38 promote tourism.

39 (f) **Effective date of levy.** A tax levied under this section shall become
40 effective on the date specified in the resolution levying the tax. That date must be the
41 first day of a calendar month, however, and may not be earlier than the first day of the
42 second month after the date the resolution is adopted.

43 (g) **Repeal.** A tax levied under this section may be repealed by a resolution
44 adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under

1 this section shall become effective on the first day of a month and may not become
2 effective until the end of the fiscal year in which the repeal resolution was adopted.
3 Repeal of a tax levied under this section does not affect a liability for a tax that was
4 attached before the effective date of the repeal, nor does it affect a right to a refund of a
5 tax that accrued before the effective date of the repeal.

6 **PART 2. ORANGE LOCAL GIS/QUALIFIED EXEMPTION.**

7 Sec. 2. Section 2 of Chapter 285 of the 1991 Session Laws, as amended by
8 Chapter 845 of the 1991 Session Laws, reads as rewritten:

9 "Sec. 2. This act applies to Brunswick, Catawba, ~~Johnston and Lincoln~~ Johnston,
10 Lincoln, and Orange Counties and the Cities of Chapel Hill, Carrboro, Conover,
11 Hickory, Lincolnton, and Newton only."

12 **PART 3. FORSYTH, NASH, AND ORANGE SCHOOL PROPERTY**
13 **ACQUISITION.**

14 Sec. 3. (a) Chapter 885 of the 1989 Session Laws, as amended by Chapters 120, 533,
15 832, 848, 865, and 1001 of the 1991 Session Laws, and as codified as G.S. 153A-157,
16 reads as rewritten:

17 **"§ 153A-157. Power to acquire property in certain counties.**

18 (a) A county may acquire, by gift, grant, devise, bequest, exchange, purchase,
19 lease, or any other lawful method, the fee or any other lesser interest in real or personal
20 property for use by the county or any department, board, commission, or agency of the
21 county or a school administrative unit within the county. In exercising the power of
22 eminent domain a county shall use the procedures of Chapter 40A.

23 The county shall use its authority under this section to acquire the fee or any lesser
24 interest in real or personal property for use by a school administrative unit within the
25 county only upon the request of the board of education of that school administrative unit
26 and after a public hearing.

27 (b) This section applies to Bladen, Cabarrus, Carteret, Columbus, Duplin,
28 Forsyth, Franklin, Iredell, Johnston, Nash, Orange, Pender, Richmond, Rowan,
29 Sampson, and Stanly Counties."

30 (b) Notwithstanding the provisions of G.S. 115C-40 and G.S. 115C-521, local
31 boards of education are authorized to enter into contracts for the erection or repair of
32 school buildings upon sites owned in fee simple by one or more counties in which the
33 local school administrative units are located. A school administrative unit may also
34 acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful
35 method, the fee or any lesser interest in real or personal property for use by it from the
36 county in which it is located and contract for the construction, equipment, expansion,
37 improvement, renovation, or repair or otherwise make available for use by it of such
38 property or some part of such property upon such terms as may be agreed upon by it and
39 such county.

40 (c) Notwithstanding the provisions of G.S. 115C-518 and G.S. 160A-274, a local
41 board of education may lease or sell any of its property to the board of commissioners
42 of the county in which the property is located for any price negotiated between the two
43 boards.

1 (d) G.S. 153A-157, as amended by subsection (a) of this section, is amended by
2 adding a new subsection to read:

3 "(a1) A county may construct, equip, expand, improve, renovate, or otherwise
4 make available property for use by a school administrative unit within the county."

5 (e) Subsections (b), (c), and (d) of this section apply only to Forsyth, Nash,
6 and Orange Counties and to local boards of education for school administrative units in
7 or for those counties. Subsection (c) of this section applies only to sales and leases of
8 property in connection with additions, improvements, renovations, or repairs to the
9 property or to some part of the property.

10 PART 4. ORANGE IMPACT FEES.

11 Sec. 4. (a)G.S. 153A-331(b)(2), as it applies to Orange County under Section 17 of
12 Chapter 460 of the Session Laws of 1987, reads as rewritten:

13 "(2) For purposes of this subsection, the term capital improvements
14 includes the acquisition of land for open space and greenways, capital
15 improvements to public streets, schools, bridges, sidewalks, bikeways,
16 on and off street surface water drainage ditches, pipes, culverts, other
17 drainage facilities, water and sewer facilities and public recreation
18 ~~facilities~~-facilities, and the term 'costs' includes obligations incurred or
19 assumed for payments with respect to borrowed money and for
20 payments under leases which are required to be capitalized in
21 accordance with generally accepted accounting principles and under
22 installment sale contracts in connection with such capital
23 improvements."

24 (b) G.S. 153A-340(b)(2), as it applies to Orange County under Section 18 of
25 Chapter 460 of the Session Laws of 1987, reads as rewritten:

26 "(2) For purposes of this subsection, the term capital improvements
27 includes the acquisition of land for open space and greenways, capital
28 improvements to public streets, schools, bridges, sidewalks, bikeways,
29 on and off street surface water drainage ditches, pipes, culverts, other
30 drainage facilities, water and sewer facilities and public recreation
31 ~~facilities~~-facilities, and the term 'costs' includes obligations incurred or
32 assumed for payments with respect to borrowed money and for
33 payments under leases which are required to be capitalized in
34 accordance with generally accepted accounting principles and under
35 installment sale contracts in connection with such capital
36 improvements."

37 (c) Section 17.1 of Chapter 460 of the 1987 Session Laws, as rewritten by
38 Chapter 324 of the 1991 Session Laws, reads as rewritten:

39 "Sec. 17.1. Section 17 of this act shall apply only to Orange County, and applies
40 only within the planning jurisdiction of Orange County. Provided, however, any
41 portion of an Orange County ordinance that contains a system of impact fees to provide
42 for capital improvements to public schools within Orange County, applies everywhere
43 in Orange County, including within the corporate limits and the extraterritorial planning
44 jurisdiction of any city, town, or municipal corporation within Orange ~~County~~-County,

1 any such ordinance may provide that the term 'costs' includes obligations incurred or
2 assumed for payments with respect to borrowed money and for payments under leases
3 which are required to be capitalized in accordance with generally accepted accounting
4 principles and under installment sale contracts in connection with such capital
5 improvements."

6 (d) Section 18.1 of Chapter 460 of the 1987 Session Laws, as rewritten by
7 Chapter 324 of the 1991 Session Laws, reads as rewritten:

8 "Sec. 18.1. Section 18 of this act shall apply only to Orange County, and applies
9 only within the planning jurisdiction of Orange County. Provided, however, any
10 portion of an Orange County ordinance that contains a system of impact fees to provide
11 for capital improvements to public schools within Orange County, applies everywhere
12 in Orange County, including within the corporate limits and the extraterritorial planning
13 jurisdiction of any city, town, or municipal corporation within Orange ~~County.~~ County,
14 any such ordinance may provide that the term 'costs' includes obligations incurred or
15 assumed for payments with respect to borrowed money and for payments under leases
16 which are required to be capitalized in accordance with generally accepted accounting
17 principles and under installment sale contracts in connection with such capital
18 improvements."

19 ♦ Sec. 5. References in this Part to specific sections of the General Statutes
20 are intended to be references to such sections as they may be amended from time to
21 time. This Part shall be liberally construed to effectuate its purposes. Insofar as the
22 provisions of this Part are inconsistent with general law, this Part shall control. If any
23 provision of this act or the application thereof to any person or circumstance is held
24 invalid, such invalidity shall not affect other provisions or applications of the Part which
25 can be given effect without the invalid provision or application, and to this end the
26 provisions of this Part are severable.

27 Sec. 6. This act is effective upon ratification.