

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 642
SENATE BILL 1679

AN ACT TO MAKE SUNDRY AMENDMENTS RELATING TO LOCAL
GOVERNMENTS IN ORANGE, CHATHAM, FORSYTH, AND NASH
COUNTIES.

The General Assembly of North Carolina enacts:
PART 1. CHATHAM OCCUPANCY TAX.

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

(b) **Collection.** Every operator of a business subject to the tax levied under this section shall, on and after the effective date of the levy of the tax, collect the tax. This tax shall be collected as part of the charge for furnishing a taxable accommodation. The tax shall be stated and charged separately from the sales records, and shall be paid by the purchaser to the operator of the business as trustee for and on account of the county. The tax shall be added to the sales price and shall be passed on to the purchaser instead of being borne by the operator of the business. The county shall design, print, and furnish to all appropriate businesses and persons in the county the necessary forms for filing returns and instructions to ensure the full collection of the tax. An operator of a business who collects the occupancy tax levied under this section may deduct from the amount remitted to the county a discount equal to the discount the State allows the operator for State sales and use tax.

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

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

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

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

- (1) **Net proceeds.** – Gross proceeds less the cost to the county of administering and collecting the tax, as determined by the finance officer, not to exceed seven percent (7%) of the gross proceeds.
- (2) **Promote travel and tourism.** – To advertise or market an area or activity, publish and distribute pamphlets and other materials, conduct market research, or engage in similar promotional activities that attract tourists or business travelers to the area. The term includes administrative expenses incurred in engaging in the listed activities.
- (3) **Tourism-related expenditures.** – Expenditures that are designed to increase the use of lodging facilities in the county or to attract tourists or business travelers to the county. The term includes expenditures to construct, maintain, operate, or market a convention or meeting facility, a visitors' center, or a coliseum; and other expenditures that, in the judgment of the board of commissioners, will facilitate and promote tourism.

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

(g) **Repeal.** A tax levied under this section may be repealed by a resolution adopted by the Chatham County Board of Commissioners. Repeal of a tax levied under this section shall become effective on the first day of a month and may not become effective until the end of the fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this section does not affect a liability for a tax that was attached before the effective date of the repeal, nor does it affect a right to a refund of a tax that accrued before the effective date of the repeal.

PART 2. ORANGE LOCAL GIS/QUALIFIED EXEMPTION.

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

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

PART 3. FORSYTH, NASH, AND ORANGE SCHOOL PROPERTY ACQUISITION.

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

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

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

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

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

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

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

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

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

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

PART 4. ORANGE IMPACT FEES.

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

"(2) For purposes of this subsection, the term capital improvements includes the acquisition of land for open space and greenways, capital

improvements to public streets, schools, bridges, sidewalks, bikeways, on and off street surface water drainage ditches, pipes, culverts, other drainage facilities, water and sewer facilities and public recreation ~~facilities.~~ facilities, and the term 'costs' includes obligations incurred or assumed for payments with respect to borrowed money and for payments under leases which are required to be capitalized in accordance with generally accepted accounting principles and under installment sale contracts in connection with such capital improvements."

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

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

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

"Sec. 17.1. Section 17 of this act shall apply only to Orange County, and applies only within the planning jurisdiction of Orange County. Provided, however, any portion of an Orange County ordinance that contains a system of impact fees to provide for capital improvements to public schools within Orange County, applies everywhere in Orange County, including within the corporate limits and the extraterritorial planning jurisdiction of any city, town, or municipal corporation within Orange ~~County.~~ County, any such ordinance may provide that the term 'costs' includes obligations incurred or assumed for payments with respect to borrowed money and for payments under leases which are required to be capitalized in accordance with generally accepted accounting principles and under installment sale contracts in connection with such capital improvements."

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

"Sec. 18.1. Section 18 of this act shall apply only to Orange County, and applies only within the planning jurisdiction of Orange County. Provided, however, any portion of an Orange County ordinance that contains a system of impact fees to provide for capital improvements to public schools within Orange County, applies everywhere in Orange County, including within the corporate limits and the extraterritorial planning jurisdiction of any city, town, or municipal corporation within Orange ~~County.~~ County, any such ordinance may provide that the term 'costs' includes obligations incurred or

assumed for payments with respect to borrowed money and for payments under leases which are required to be capitalized in accordance with generally accepted accounting principles and under installment sale contracts in connection with such capital improvements."

Sec. 5. References in this Part to specific sections of the General Statutes are intended to be references to such sections as they may be amended from time to time. This Part shall be liberally construed to effectuate its purposes. Insofar as the provisions of this Part are inconsistent with general law, this Part shall control. 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 Part which can be given effect without the invalid provision or application, and to this end the provisions of this Part are severable.

Sec. 6. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 1st day of July, 1994.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives