

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 453*

Short Title: Union Sales Tax for Schools.

(Local)

Sponsors: Representatives Melton, and Barbee.

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

March 15, 1999

A BILL TO BE ENTITLED

AN ACT TO AUTHORIZE UNION COUNTY TO LEVY A ONE-CENT LOCAL SALES TAX FOR PUBLIC SCHOOL CAPITAL OUTLAY, SUBJECT TO APPROVAL BY THE VOTERS OF THE COUNTY.

The General Assembly of North Carolina enacts:

Section 1. This act applies only to Union County.

Section 2. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 44.

"SECOND ONE-CENT (1¢) LOCAL GOVERNMENT SALES AND USE TAX.

"§ 105-515. Short title.

This Article is the Second One-Cent (1¢) Local Government Sales and Use Tax Act.

"§ 105-516. Purpose.

This Article gives the counties of this State an opportunity to obtain a source of revenue with which to meet their public school construction needs. It provides all counties of the State that are subject to this Article with authority to levy one percent (1%) sales and use taxes.

"§ 105-517. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the

1 first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the
2 second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

3 **"§ 105-518. Levy and administration of tax.**

4 Subject to the conditions provided in G.S. 105-519, the board of commissioners of the
5 county may, by resolution, after not less than 10 days' public notice and a public hearing
6 held pursuant thereto, levy one percent (1%) local sales and use taxes in addition to any
7 other State and local sales and use taxes levied pursuant to law. Except as provided in
8 this Article, the adoption, levy, collection, administration, and repeal of these additional
9 taxes shall be in accordance with Article 39 of this Chapter.

10 A tax levied under this Article does not apply to the sales price of food that is not
11 otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the
12 State sales and use tax pursuant to G.S. 105-164.13 if it were purchased under the Food
13 Stamp Program, 7 U.S.C. § 51.

14 **"§ 105-519. County election on adoption of tax.**

15 (a) Resolution. – In order to levy the tax authorized by this Article, the board of
16 commissioners of the county must hold a special election as provided in this section,
17 either at a statewide general election before the effective date of the levy of the tax, or at
18 the next statewide general election after the effective date of the levy of the tax. To hold
19 the special election, the county must, by resolution, after 10 days' public notice and a
20 public hearing on the question, direct the county board of elections to conduct a special
21 election on the question of whether a local sales and use tax at the rate of one percent
22 (1%) will be levied in accordance with this Article. The election must be held in
23 accordance with the procedures of G.S. 163-287.

24 (b) Ballot Question. – The question to be presented on a ballot for a special
25 election concerning the levy of the taxes authorized by this Article must be in the
26 following form:

27 **[] FOR [] AGAINST**

28 one percent (1%) local sales and use taxes, in addition to the current two percent (2%)
29 local sales and use taxes, to be used only for public school capital outlay.

30 (c) Effect of Special Election. – If the majority of those voting in a special election
31 held pursuant to this Article vote for the levy of the tax, the tax levy is authorized. If the
32 majority of those voting in a special election held pursuant to this Article vote against the
33 levy of the tax, the tax levy and the authority of the county to levy the tax is repealed
34 effective on the first day of the first month following the election. If the county fails to
35 hold a special election before or at the next statewide general election following the
36 effective date of the levy of the tax, the tax is repealed effective on the first day of the
37 first month following that general election.

38 Repeal of a tax pursuant to this Article does not affect the rights or liabilities of the
39 county, a taxpayer, or another person arising under the repealed tax before the effective
40 date of its repeal; nor does it affect the right to any refund or credit of a tax that would
41 otherwise have been available under the repealed tax before the effective date of its
42 repeal.

1 If the Secretary receives a valid request for a refund of a tax levied under this Article
2 after the tax has been repealed and the net proceeds have been distributed, the Secretary
3 must draw the refund from the taxing county's share of the net proceeds of the tax it
4 levies under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws,
5 as applicable.

6 **"§ 105-520. Distribution and use of tax.**

7 (a) Distribution. – The Secretary must, on a quarterly basis, distribute to each
8 taxing county the net proceeds of the tax levied under this Article by that county. If the
9 Secretary collects taxes under this Article in a month and the taxes cannot be identified as
10 being attributable to a particular taxing county, the Secretary must allocate these taxes
11 among the taxing counties in proportion to the amount of taxes collected in each county
12 under this Article in that month and must include them in the quarterly distribution.

13 (b) Use. – A county may use the proceeds of a tax levied under this Article only
14 for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any
15 indebtedness incurred by the county for these purposes.

16 (c) Nonsupplant Restriction. – It is the purpose of this Article for counties to
17 appropriate funds generated under this Article to increase the level of county spending for
18 public school capital outlay above the level of spending before the levy of the tax
19 authorized in this Article. A county that levies a tax under this Article must continue to
20 spend for public school capital outlay purposes in its local school administrative units the
21 same amount of money it would have spent for those purposes if it had not levied the
22 tax."

23 Section 3. This act is effective when it becomes law.

24 Section 4. A tax levied under Article 44 of Chapter 105 of the General
25 Statutes, as enacted by this act, does not apply to construction materials purchased to
26 fulfill a lump-sum or unit-price contract entered into or awarded before the effective date
27 of the levy or entered into or awarded pursuant to a bid made before the effective date of
28 the levy when the construction materials would otherwise be subject to the tax levied
29 under Article 44 of Chapter 105 of the General Statutes.